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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

23 Cr. 490 (SHS)

6 ROBERT MENENDEZ,
7 WAEL HANA, a/k/a "Will Hana,"
8 and FRED DAIBES,

9 Defendants.

10 Trial

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12 Before:
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New York, N.Y.
July 10, 2024
10:00 a.m.

HON. SIDNEY H. STEIN,

District Judge
-and a Jury-

APPEARANCES

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United States Attorney for the
Southern District of New York
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-and-
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Justin Kelly, DOAR

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1 (Trial resumed; jury not present)

2 THE COURT: Mr. Fee, what's your estimate, sir?

3 MR. FEE: It edged upwards overnight, your Honor --
4 Mr. Weitzman's fault -- two and half hours.

5 THE COURT: Well, I suggest you pick up the pace a
6 bit. That's my read of the jurors. You can have your own
7 read.

8 MR. FEE: Yes, your Honor.

9 THE COURT: You're also getting to the point where, in
10 your closing, you criticized the government for the length of
11 its summation, and I think you're over that. It's really up to
12 you, sir. Do what you feel you have to.

13 Let's bring this jury in.

14 MR. MONTELEONI: Your Honor, I have something to raise
15 before the jury comes in.

16 THE COURT: Yes.

17 You may be seated in the courtroom.

18 MR. MONTELEONI: After the break, your Honor, Mr. Fee
19 made a number of remarks that were sort of straddling the line
20 between attorney vouching and attorney testifying. He talked
21 about what Bob wants. He said Bob doesn't want to be here
22 seeing his texts to his girlfriend in open court. He doesn't
23 want to be here doing this.

24 Obviously Mr. Menendez chose not to testify.

25 THE COURT: Yes. You can stop right there. I think

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Summation - Mr. Fee

1 that's right.

2 Your client did not testify, so you really can't put
3 words into his mouth.

4 Do you understand that, sir?

5 MR. FEE: I do, your Honor.

6 MR. MONTELEONI: And he also says -- a different
7 subject, but also injecting his credibility and opinions. He
8 said I assure you if the government had any idea, any proof
9 they could supply a theory about how this money got here, you
10 would have heard it. You would have heard it; I promise you.

11 He shouldn't be making promises about anything, let
12 alone --

13 THE COURT: I think it's best not to use that term. I
14 think that was all right. Stay away from it, though. No
15 vouching. Don't put words in your client's mouth when he
16 hasn't taken the stand. You know the rules. Don't get close
17 to the line.

18 Bring the jury in.

19 Oh, something else?

20 MR. MONTELEONI: I'm sorry. One last thing.

21 He explained the strategic decisions behind why the
22 defense team, I think, put on the forensic financial analyst's
23 opinions in a certain way. He said, well, we did it this way
24 because we wanted to be conservative.

25 He shouldn't be talking, he shouldn't be testifying

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Summation - Mr. Fee

1 about the defense team's strategic decision-making. That's
2 just not for the jury. That's not in evidence.

3 THE COURT: Stick to what the evidence showed, and you
4 can raise whatever doubts you think are appropriate based on
5 the evidence.

6 Let's bring this jury in. No more commentary.

7 You understand the rules, Mr. Fee, correct?

8 MR. FEE: Yes, your Honor.

9 THE COURT: Thank you.

10 (Jury present)

11 THE COURT: You may be seated in the courtroom.

12 Good morning, ladies and gentlemen. Welcome. I
13 understand sometimes the public transportation system does not
14 work as efficiently as we'd like. It certainly happens from
15 time to time.

16 Mr. Fee, you may continue and conclude your summation.

17 MR. FEE: Thank you, your Honor.

18 Good morning, everybody. Welcome back.

19 Yesterday we spent most of our time talking about
20 where, I would submit, the prosecutor's case really begins and
21 ends -- the cash, the gold seized at 41 Jane. And the reason
22 is I want you to understand that the inferences they're asking
23 you to adopt about that cash and the gold are not credible, are
24 not reliable. And I'm going to move on from the cash and gold
25 entirely, but I want to leave you with this thought.

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Summation - Mr. Fee

Again, this is not a boxing match. This is not a political debate. You don't pick story A or story B. You don't go with what makes more gut sense about a story you're being told. Your oath requires you to follow the law, and as you know by now, the law says that even if, in your mind, you cannot trace every piece of cash and gold seized at 41 Jane to here or there or from there or from here, you must acquit, because there is not proof beyond a reasonable doubt that Bob took anything in exchange for a particular official action.

That is the law.

So today, I'm not going to spend my time talking about where they started and ended, the cash and gold. Today, I want to talk about the actions you have heard evidence about and the absence of evidence you heard, because, remember, the prosecutors have to prove, beyond a reasonable doubt, that Bob took official actions in exchange for bribes. They have not done that. That's why they are so focused on the cash and the gold. That's why the presentation of evidence started and ended with cash and gold. That's why the summation started and ended with cash and gold, because that is just a piece of the case.

This case, it dies here, today. The government always has the burden, and I'm telling you this case dies here today because they have failed to prove -- they have failed to prove -- to that very high standard that Bob's actions were

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Summation - Mr. Fee

1 anything other than exactly what we want our elected officials
2 to do. He was doing his job, and he was doing it well.

3 So let's first start with the allegation that José
4 Uribe bribed Nadine and Bob to pressure Gurbir Grewal, the
5 former attorney general of New Jersey, to drop the Parra case.

6 First, the prosecutors are have abandoned Uribe. He's
7 gone. He's in the witness trash pile with Agent Kougemitos.
8 That's what you heard in the prosecutor's summation. They
9 first tried really hard to make him sound like a credible
10 witness. They failed. And so the first time in that summation
11 the prosecutor mentioned Uribe, he bragged to you. He said,
12 hey, look how far I made it before mentioning this guy.

13 Folks -- then he said, you don't need him, but also if you do
14 need him, he's super credible. And you should believe his
15 devastating account -- that's the word he used -- of never
16 having mentioned the bribery scheme or the car to Bob Menendez.
17 This is another Uribe/blue blazer problem: José Uribe.

18 It is such a malleable, typical, hollow story that
19 yesterday you were told to imagine the case, the story, both
20 with and without José Uribe. It's another argument. You were
21 asked to do that yesterday.

22 So what are you supposed to do? What is the jury
23 supposed to do? Credit Uribe? Reject him? The evidence is
24 different with and without that person, right? Do they want
25 you to accept that the evidence doesn't change without Uribe?

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Summation - Mr. Fee

1 Because that's false. What is the story they want you to
2 accept? Does it matter? Does it matter? Does it matter as
3 long as you convict? Is that the ultimate end of the arguments
4 being made to you by the government's attorneys? Because I
5 submit what that shift you saw in the summation that Uribe,
6 maybe, should be ignored entirely shows you that the core of
7 this case is hollow. There is no evidence upon which you can
8 reasonably rely to draw the conclusions that they want you to
9 draw.

10 So let's talk about Uribe.

11 Now, I'm not going to rehash all the ways that the
12 evidence showed him to have lied a whole lot in his life and
13 here. I truly don't think that anyone who saw that testimony
14 believes anything other than Uribe will do what he needs to do
15 to take care of himself. 100 percent. He told you -- he told
16 you -- that he devoted most of his life to lying, to fraud, to
17 running a fraud scheme. He told you that he actually devoted
18 most of the lives of the people he claims to love to helping
19 him run those fraud schemes. He was first convicted of fraud
20 in 2011. Didn't stop him. He then brought his own son, or his
21 stepson, Omar, in to help with the fraud. Omar was the first
22 person he had to get that license to run the business, when in
23 truth, Uribe told you he was running the business. But then
24 Omar got out of there. He went to the West Coast, Uribe told
25 you. And Uribe has a problem: I need to run this insurance

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Summation - Mr. Fee

1 business; I'm not legally allowed to do it. I need somebody
2 else to do it for me. And he picks a 19-year-old pregnant
3 teenager, who comes to him for help. OK? That's what he told
4 you.

5 And it's hard to imagine someone more vulnerable and
6 who needed to be protected from someone like him, but that's
7 the tragic choice he made. That's the man that the U.S.
8 government wants you to believe so that you can accept their
9 story. Or not believe if you don't like him but still accept
10 the story. That was the takeaway of the summation.

11 And then when they do talk about Uribe, they use the
12 word, which I'm sure you all know, "corroboration." Right?
13 You don't have to believe him, but you should believe him
14 because he is corroborated. Right? Like, there's other
15 evidence that shows him to be a truth teller. I would submit
16 to you that the corroboration you hear of most of José Uribe's
17 embellishments -- and I'll talk about what I mean by that -- is
18 invented corroboration. Invented.

19 I think a good example, just one example, is all these
20 photos of the New Jersey restaurants where José Uribe had
21 meetings with, whoever, Will Hana, Nadine, Bob. They
22 photographed these restaurants. They've showed them to you.
23 They pointed to it as corroboration for his account. What I
24 mean when I say this is invented corroboration, the photo of
25 the restaurant doesn't corroborate what he said happened there.

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Summation - Mr. Fee

1 Right? It doesn't corroborate anything about whether a bribe
2 is paid. It's a restaurant. It corroborates that the
3 restaurant he said he went to exists. That is not the sort of
4 corroboration that can save a story that is not credible, I
5 would submit to you.

6 I would call this oak tree corroboration. Imagine or
7 think of someone arrested and accused of stealing a Honda Civic
8 parked under an oak tree near the Bronx Zoo. There's no
9 witness. There's no video. There's no recovery of a Honda
10 Civic, but a prosecutor can stand up and say: There's an oak
11 tree; there's the Bronx Zoo; there's the oak tree near the
12 Bronx Zoo -- corroboration. That's the sort of invented
13 corroboration you have with José Uribe. I would reject those
14 arguments for corroborating him.

15 But now, listen, I want you to listen to what José
16 Uribe said. I think there is truth in what he said. I think
17 he embellished sometimes. I think even his embellishments,
18 frankly, do not get close to proving a crime, because even José
19 Uribe, when you remove the rhetoric and the argument you hear
20 about him, this core fact is 100 percent true -- José Uribe
21 does not say that anything criminal was discussed with Senator
22 Menendez at any time. I'm not exaggerating. Uribe said he
23 never spoke to Senator Menendez about the car payments Uribe
24 was making for Nadine, ever. We showed you that yesterday.
25 His own testimony -- his own testimony -- was that Uribe only

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Summation - Mr. Fee

1 discussed the bribery scheme when Bob wasn't around.

2 You heard all this. When he met with Bob and Nadine
3 at a restaurant the first time, it was at an engagement party,
4 Uribe says no discussion of the scheme, no discussion about any
5 bribe. Nothing about Uribe's agreement with Nadine. Nothing.
6 When he met with Bob, Nadine and Will, Wael Hana, at another
7 restaurant, again, Uribe told you no discussion of any scheme,
8 no implicit discussion, no wink-wink. No. When he met Bob at
9 41 Jane, which the prosecutor talked a lot about -- that's the
10 little bell; we'll talk about that -- take every word Uribe
11 said, no discussion of the scheme. Nothing. Nothing. They
12 got Uribe to speculate, helpfully, that he was sure Bob knew
13 about the bribery payments. Uribe did not say that. He did
14 not talk about that at 41 Jane. He did not talk about that
15 ever. What you heard Uribe say was that he wrote down the
16 names of the people in the cases that Bob was going to call
17 Grewal about.

18 Folks -- that was it, by the way; that's all Uribe
19 said, no discussion of the scheme -- you would 100 percent
20 write down the names of the people in that case if you were
21 telling Bob that it was an unfair, selective prosecution, which
22 is what the evidence shows Uribe actually did. Nothing about
23 Uribe's account proves any bit of a crime.

24 Now, the prosecutors liked that little bell story.
25 We'll talk about more how they use it and what it means.

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Summation - Mr. Fee

1 The last dinner, the last face to face Uribe ever had
2 with Bob was at Segovia Restaurant. This is the "save your
3 ass" discussion. Again, take what he says. There is not one
4 word, according to José Uribe, about a bribe, a bribery scheme,
5 a deal with Nadine, a car, a bribery payment. Even Uribe tells
6 you really just one thing that was said: I saved your ass
7 twice. Uribe does not say I clarified that he meant it was
8 about the Parra case. Uribe does not say Bob said I saved your
9 ass by calling Grewal. Uribe does not say, you know, I called
10 Grewal not because you told me it was a selective prosecution,
11 but because it was a bribe. Uribe does not say any of that.

12 None of it.

13 Uribe does say, when he meets with Will Hana and
14 others, Parra, Bien, then he's discussing a bribery scheme. I
15 don't think that's true either. But just looking at Bob, the
16 man himself, does not prove their case. It's actually the
17 opposite, which is why he's on that, you know, witness trash
18 pile. His testimony didn't stand up. He helped disprove the
19 charges. That is why -- and it's funny that we're doing this,
20 but that is why we're talking about, did he ring a little bell?
21 Did Bob say I saved your ass? If there was proof of a crime in
22 Uribe's account, we would not be talking about a little bell
23 this much. We would not be talking about *culitos* at Segovia.
24 We would be talking about the evidence of a crime. It does not
25 exist. Do whatever you want with José Uribe. I don't find him

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Summation - Mr. Fee

1 very credible, but take every word he says. It does not get
2 you proof of a crime.

3 Now, you know, the argument here that the prosecutors
4 make, which I submit to you is only an argument a lawyer could
5 make, you must believe José Uribe because if he was a liar, he
6 would have made up a more incriminating story. OK? Think
7 about that. If José Uribe was a liar, he would have said: I
8 sat down at Segovia, Bob slapped me across the face and said
9 you'd better pay me a bribe so I can call Grewal, whatever.
10 That's what a liar would do.

11 Folks, you know, I think your common sense gives your
12 reaction to that. But Uribe's a good liar. You know? He is.
13 Like, he's a good liar. He's been doing it a long time. He
14 got away with it for a long time. He got caught. I think he's
15 lying to help himself avoid the consequences of getting caught.
16 But imagine if you do something for, like, 25 years -- you
17 knit, you play video games, you swim, you play tennis, whatever
18 it is, had you been doing it every day, every single day for 25
19 years, I bet you're good at it. I bet you know how to do that
20 skill pretty effectively, doing it every day for 25 years.
21 Like any truly excellent liar, I bet you know this -- if you
22 have kids, you know this -- the best lie is one that sticks
23 really close to the truth but is tweaked to get you what you
24 need. You know what I mean?

25 Like if he said: I sat down and Bob grabbed me by the

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Summation - Mr. Fee

1 lapel and said pay me the money, that's not credible on its
2 face. So you get these little tweaks that make José Uribe
3 matter, that make him needed so that he gets what he wants,
4 which is that letter from the government to help him avoid the
5 top sentence for all that fraud and stuff that he'd been doing.
6 OK? That's what a good liar does, is tell a story close to the
7 truth. I actually think that's what he did here. I think
8 Uribe knew he couldn't go so far, because he knows Bob is
9 innocent. I want to talk about the proof that Bob had no
10 involvement in any scheme involving Uribe, but Uribe knew he
11 was innocent, and that's why Uribe's story proves him innocent
12 with a couple little one-on-one -- one-on-one -- Uribe and Bob,
13 it has to be one-on-one, otherwise you don't need José Uribe,
14 right? He needs the government to need him. That's why you
15 get these one-on-one embellishments. I think that's exactly
16 what happened here.

17 So what does the evidence actually show about the
18 story of Uribe?

19 You know all about his background, Ana Peguero, the
20 insurance business he was running in violation of the law. And
21 in 2018, he has a problem. He knows this case is out there,
22 and he's worried the New Jersey State case is going to lead to
23 him. And that's a fair concern, because he, as you heard, is
24 selling insurance products to Parra's company, and it's
25 reasonable to think that if Parra's being investigated for

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Summation - Mr. Fee

1 insurance fraud, that it could get back to José. Because you
2 know, José is running an illegal insurance -- it's not, like, a
3 complicated question if anybody starts to really look. Right?

4 So that's the problem. And he comes up with a plan to
5 repackage his problem. This is proven. So Uribe targets
6 Nadine. She was vulnerable. She needed help financially. She
7 didn't want to sell all that family gold and jewelry. She was
8 very receptive to getting help with a car. Uribe told you he
9 discussed that with her. And remember he said she complained
10 about all the men in her life -- not Bob, but all the men in
11 her life who had disappointed her and how she needed financial
12 help from them. Again, according to Uribe, she doesn't mention
13 Bob. And Uribe said, this is an opportunity. I promised
14 Nadine I'd get her the car if she'd get me in touch with the
15 senator. He says this. We'll show you he says this. And here
16 it is.

17 This is the bargain. This is the deal that Uribe had
18 with Nadine. Again, I think he's sticking pretty close to the
19 truth here.

20 MR. MONTELEONI: Vouching.

21 THE COURT: Yes.

22 Ladies and gentlemen, it doesn't matter what Mr. Fee
23 says. He can't say believe this because I believe this. All
24 right? He has to tell you what the evidence showed and the
25 conclusions he wants you to draw from it.

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Summation - Mr. Fee

1 Proceed, sir.

2 MR. FEE: Believe this because the evidence shows you
3 this is the actual deal that was struck. Uribe says he was
4 thanking Nadine for her commitment of trying to put me in touch
5 with Bob. He owes her because she's doing her best to get me a
6 communication with the senator. And his end of the bargain, he
7 agrees, was to help Nadine get the car so he could get to the
8 patio meeting.

9 Now, Uribe actually doesn't say he discussed the crime
10 with Bob. The government argues that the patio meeting is
11 proof of a crime. That's wrong. There's just not evidence to
12 support that story, but let's just unpack what Uribe was
13 actually doing.

14 There was a deception that Uribe was attempting to run
15 on Bob, and you've actually seen evidence of this. Uribe was
16 showing Bob an entirely false image of Uribe as, like, a good
17 business guy, a civic leader, a stand-up person in the Latino
18 trucking community in New Jersey. The evidence tells you this
19 is what he was trying to convey to Bob. And again, Uribe knows
20 how to sell a story. Right? What you're seeing here is Uribe
21 texting with Nadine -- if we could go back -- and then texting
22 with Fernando Barruos in the runup to a meeting with Bob. And
23 again, this is yet another meeting that the government submits
24 is proof of a crime, where they're, like, taking photos of
25 themselves hanging out, having drinks and a cigar.

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Summation - Mr. Fee

1 What Uribe is doing in the runup is basically
2 research. Right? He's getting from Barruos information about
3 how trucking companies are closing. He actually sends Fernando
4 here part of the car payment that he wants help to pay for for
5 Nadine.

6 And then if we go to the next slide, more of the same.
7 And then you see proof. This is black and white proof, not an
8 argument, black and white proof that Nadine and José were
9 keeping information from Bob:

10 Thank you for last night. It was fun.

11 Yes, dear. Thank you. Please help me close all the
12 things. I didn't want to say anything last night.

13 This is May 4, last night, when they're with Bob.

14 And then José is continuing to talk about payment
15 again. Nadine and José were keeping their bargain from Bob.
16 It's here in front of you. There's more of it. This is the
17 opposite of proof showing a scheme involving Bob. This is the
18 opposite of proof showing that Bob conspired with José Uribe.
19 This is not proof of a conspiracy. It is the opposite. He was
20 not aware of the bargain, and you see Uribe gathering
21 information for this deception that he wanted to convey to Bob.

22 I think the core proof of the false image Uribe was
23 trying to convey to Bob that explains, I think, in part, why
24 Bob made that call to Grewal is the fund-raising.

25 MR. MONTELEONI: Objection.

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Summation - Mr. Fee

1 THE COURT: I'll allow it.

2 Proceed.

3 MR. FEE: The fund-raiser shows you the image Uribe
4 was trying to convey.

5 THE COURT: Well, I understand what the objection is.

6 Again, this lawyer cannot vouch for the testimony. He
7 cannot tell you I think somebody is telling the truth, I think
8 somebody is not telling the truth.

9 Stay away from that, sir, if you would.

10 MR. FEE: Yes, your Honor.

11 Uribe testified about this fund-raiser at length in
12 the direct. You did not hear about it in the summation --
13 again, because the story is still shifting, because the
14 fund-raiser, and they now realize the other evidence here
15 disproves -- disproves -- the conspiracy and the bribery scheme
16 as alleged. Let me explain what I mean.

17 If Uribe was actually in an agreement with Bob and
18 Nadine to pay them to secretly kill a state criminal case,
19 beginning in 2018 -- that's the allegation we have in this
20 case -- do you think in the midst of that conspiracy, your
21 common sense tells you, José Uribe would organize a public
22 fund-raiser for Bob Menendez?

23 Or just step back. He has had the deal for, like,
24 seven months, according to the government's allegations, with
25 Bob and Nadine. He's paying a senator to kill a case, and he

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Summation - Mr. Fee

1 says: You know what? I'm going to have a public fund-raiser,
2 where I'm associated with this man I'm paying to kill the
3 criminal case. It is the opposite -- the opposite -- of what
4 would happen if this was an accurate story about what was
5 happening. Uribe is not dumb. He is not bad at lying. That
6 is why we showed you, we walked through the careful things he
7 has done in the past to construct false stories. Right?
8 That's the reason you hear about the Small Business
9 Administration loan, where he created years of false tax
10 returns. That's, like, hard work -- hard work -- to get that
11 loan from the federal government. That's why he did the
12 Santander loan, where he, again, created a false financial
13 history and got a nephew to help him jam through that
14 application.

15 That's why it also matters what he did with Ana
16 Peguero. Right? Think about all the work he had to do. She's
17 a teenager. He got her an insurance license. He helped her
18 get from where she was when he found her to, like, a certified
19 insurance broker in the state of New Jersey. That is a lot of
20 work. It's a lot of effort. It's thoughtful. It's careful.
21 If Uribe is bribing a U.S. senator, ask yourself, is he going
22 to have a public fund-raiser?

23 No. It's the last thing you would do.

24 The true reason, and I think the evidence shows it,
25 that he would organize that fund-raiser is what the evidence

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Summation - Mr. Fee

1 has shown you to be the reality here. Uribe wanted to deceive
2 Bob into believing that Uribe was an important voice in the
3 Latino community so that when Uribe went to Bob, as he did, and
4 said: Hey, this is a problem in the community I represent,
5 Bob; this is going to eliminate 100 jobs -- and you heard Mike
6 Critchley, the lawyer for Parra, telling you who held those
7 jobs -- Latinos in New Jersey, truckers, regular folks, Bob's
8 constituents. That is exactly what Uribe did. He told you
9 that's what he did. And the fund-raiser -- again, seven months
10 in to the alleged agreement that had already been struck, the
11 fund-raiser was actually designed to set up this story by
12 Uribe.

13 Remember what Uribe told you about it. The people
14 invited to that fund-raiser were Uribe's clients and friends in
15 the Latino trucking community. He told you that. That's who
16 he brought to that fund-raiser. And it worked, by the way.
17 Remember what Uribe told you. He was asked, like, so did you
18 discuss at this fund-raiser, because you're seven months in --
19 according to the government's theory, you're seven months in --
20 to your deal with Bob and Nadine, at your fund-raiser did you
21 discuss this illicit scheme? No, no, no, no. The only thing
22 that happened at the fund-raiser between me and Bob was Bob
23 walked up to me and said, What an impressive group of people
24 you've summoned. It worked. This is exactly what Uribe wanted
25 to happen, and it happened. And the evidence shows you that

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Summation - Mr. Fee

1 it's the truthful story.

2 Again, it's not the most interesting story to pick.
3 What does the evidence show you? The evidence -- line it all
4 up here -- that disproves the conspiracy is literally
5 everything you heard about José Uribe. It's genuine of his
6 testimony, no discussion of bribery scheme. His fund-raiser,
7 seven months in to what these prosecutors say was already a
8 done deal, public fund-raiser, doesn't discuss the bribery
9 scheme with Bob. Doesn't discuss it afterwards. Doesn't say:
10 Hey, Bob, that was a really good cover for our ongoing scheme
11 to have this fund-raiser, it's really going to throw everybody
12 off the trail.

13 He doesn't even say he said that to Nadine. It's not
14 just there's the text messages or emails. Uribe doesn't say
15 that. All of the evidence shows you that the truthful story is
16 Uribe had no agreement with Bob. None. None. This count dies
17 with Uribe. None. The evidence shows you what he did want Bob
18 to believe about him and that it did work -- that Uribe was a
19 voice for the Latino trucking community, because, by the way,
20 that's who Uribe insured -- truckers. He knew a lot of
21 truckers. He knew a lot of car dealers. Right? All of it
22 lines up only on one side. Put aside the argument and the
23 rhetoric of lawyers, and look at the evidence.

24 And by the way, the ultimate hook that Uribe had for
25 Bob, that was not entirely false. It actually wasn't false.

07aWmen1

Summation - Mr. Fee

1 What I mean by that is when Uribe approaches Bob and says this
2 case, this Parra case, this stinks, it's a bad case. It's a
3 bad prosecution. It's not merited. If it continues, it's
4 going to imprison Elvis Parra and put out of business this
5 company that employs 100 people, Bob, in your community.
6 Right? These are, like, Dominican immigrants, Latinos in New
7 Jersey. These are the people Bob represents. And it was true.
8 It was true. Michael Critchley -- put aside arguments.
9 Michael Critchley, the guy on video who has, like, unprompted
10 been called the best attorney in New Jersey by a bunch of
11 people in this case -- nobody disputed that that guy knew what
12 he was talking about. Michael Critchley told you that the
13 Parra case was a bad case. He called it an abusive
14 prosecution. That's what he said he and Bob, in that phone
15 call, and he and Bob, he said I understood we both agreed that
16 this was an abusive prosecution.

17 And you heard the prosecutor say, well, Bob said
18 selective prosecution, not abusive prosecution when he called
19 Grewal. We're going to talk about the call. My friends, that
20 is not the difference that proves anything about a criminal
21 conspiracy, first of all.

22 Second of all, it is a racially motivated prosecution.
23 If a bad case, a weak case is brought against somebody who
24 doesn't deserve to be prosecuted and it destroys a business
25 that only employs Latinos in New Jersey -- you can say whatever

07aWmen1

Summation - Mr. Fee

1 you want, but the impact of that case would, 100 percent, be
2 selective and targeted and hurt one group of people.

3 And then the prosecutor said, well, that's a very
4 serious allegation. If it was a selective prosecution, the
5 case would have been dismissed. The case was basically
6 dropped. Like, Parra did plead to something, but do you
7 remember what Critchley told you? He was going to be asked to
8 do five years of jail time. And then after Critchley finished
9 his work, through no involvement of Bob, no evidence that Bob
10 ever had any actual impact or even said the name of the
11 defendant to anyone in New Jersey State government, just
12 Critchley doing his work, that case went from five years in
13 jail to no jail time. And Parra got to continue running his
14 business. That case did crumble on its own, on its merits,
15 because it was a bad case. So this is what I mean. Uribe is
16 sticking pretty darn close to the truth, is what the evidence
17 showed you. The evidence goes one way -- one way.

18 So let me do just another piece of this Uribe story.

19 Uribe talked a lot in his testimony about what
20 happened in 2018. Remember his story? That in, I think he
21 said February of 2018 is when this deal was struck. He had
22 this account of being in that lawyer Andy Aslanian's office,
23 and Will Hana approaches him and says, really out of the blue:
24 Hey, man, Nadine and her new boyfriend, Senator Menendez, can
25 help you kill that case.

07aWmen1

Summation - Mr. Fee

1 That's what Uribe says. Now, I think that's total
2 nonsense.

3 MR. MONTELEONI: Vouching.

4 THE COURT: Yes.

5 Again, it doesn't matter what Mr. Fee's personal views
6 are of the evidence.

7 Proceed.

8 MR. FEE: None of these are my personal views. My
9 personal views do not matter. When I say I think, what I am
10 saying to you is I think the evidence has shown you, has proven
11 to you, that that account was nonsense.

12 THE COURT: It's best to use that formulation.

13 MR. FEE: Yes. Thank you, your Honor.

14 You know who else has abandoned that account, folks?
15 The prosecutors. The prosecutor, you may not remember it, did
16 not mention a single thing that happened in 2018 with José
17 Uribe and this alleged scheme. Not one. His whole story about
18 Uribe started a year into the account that Uribe actually gave.

19 Now, I think you've seen a pattern when they don't
20 talk about the blazer, when they don't talk about what Katia
21 actually testified about. Is it good or bad for the
22 government's theory? Do you think it's good or bad what
23 happened in 2018 for the government's theory given that they
24 did not talk about it? This is the approach of the
25 government's inferences. And you have to combat the urge to

07aWmen1

Summation - Mr. Fee

1 ignore the gaps. When the evidence doesn't help their story,
2 it is abandoned. It is contorted. It is ignored.

3 So we have another example of that.

4 Uribe says his conversation with Will happened around
5 February 2018. And what do you know really beyond any question
6 was true in 2018, at the start?

7 Well, I would submit that the evidence shows that
8 Uribe, 100 percent, was not in any sort of criminal agreement
9 with Bob Menendez and Nadine in early 2018. What the evidence
10 does show is that, in early 2018, Will Hana went to a lawyer
11 named Doug Anton to help on the Parra case, and Uribe knew
12 that. Uribe knew that. Uribe didn't mention Doug Anton during
13 his direct testimony, but this is the proof. This is what the
14 evidence shows you. Right?

15 Remember, Uribe's story is Will says Bob and Nadine,
16 and the government says that's when the conspiracy started. Or
17 maybe they don't say it. I don't know. But that's what Uribe
18 testified to.

19 Here's the proof.

20 Uribe texts Hana, this phrase you've heard repeated
21 and attributed to Bob -- by the way, there is no evidence -- no
22 evidence, none, zero -- that Bob ever said this outside of
23 Uribe's account, which has now been abandoned by the
24 prosecutors. Uribe texts Hana the deal is to kill and stop all
25 investigation.

07aWmen1

Summation - Mr. Fee

1 What happens that day? Hana meets with criminal
2 defense attorney Doug Anton. And then you see what happens
3 next. Hana, with Uribe's help, starts to give information to
4 this lawyer, Doug Anton, about the Parra case -- again,
5 entirely absent from the government's presentation of evidence,
6 entirely absent from José Uribe's testimony when questioned by
7 prosecutors is all the evidence, the actual evidence you've
8 seen here that was drawn out.

9 So Hana is sending, like, discovery, grand jury
10 transcripts from Parra's case to Hana -- excuse me. Uribe is
11 sending that to Hana, and Hana's giving it to Anton. And the
12 reason they're doing that is because Anton is being hired to
13 help Parra. This is the deal. This is the deal to kill and
14 stop all investigation. This is the deal. And you can see it
15 in the whole runup.

16 Anton emails Hana, Doug Anton, about the case. He
17 asked for missing documents. Do you know who supplies those
18 missing documents? This is the email where Doug Anton, Esq --
19 and this is one of Will Hana's email addresses and this is on
20 that defense chart, 1303: Hey, I'm missing some of the grand
21 jury stuff.

22 Who does Hana go to to get that?

23 Next slide.

24 José Uribe. So José Uribe here copies and pastes
25 Anton's text or the text of Anton's email. José Uribe copies

07aWmen1

Summation - Mr. Fee

1 and pastes it into a text message.

2 Can we have the actual text image in the next slide,
3 or the prior slide?

4 OK. Anyway, José takes this and puts it in his text
5 message to one of the guys actually involved in the case.

6 Right? So José knows all about this. Right? Like, he's got
7 the email from Doug Anton. That's what this proves to you.

8 This is not an inference. I'm not asking you to speculate.

9 This is black and white. José Uribe has the email from Doug
10 Anton asking for documents so that Doug Anton can help Elvis
11 Parra -- a lot of names. The bottom line is this. Uribe knew
12 and was involved in and wanted this guy Doug Anton to stop and
13 kill the investigation. That's what actually is proven. The
14 opposite is all inference. It's all, I would submit to you,
15 based on the evidence, total fantasy that Bob, after, like, two
16 dates with Nadine just starts to commit, like, bribery schemes
17 with José Uribe? Does your common sense tell you that's the
18 kind of person -- or excuse me, anyone would do that? Is there
19 any evidence indicating that Bob was the sort of person who
20 would go on two dates and just start agreeing to do massive,
21 intricate criminal conspiracies? That's the actual story,
22 based on no evidence, other than José Uribe's account, which
23 has disappeared from the prosecutor's story. That's how much
24 faith you should put in this.

25 OK. Doug Anton, you've heard that name. One of the

07aWmen1

Summation - Mr. Fee

1 other reasons the evidence and your common sense tells you
2 there is no criminal agreement in 2018 -- or ever, but let's
3 just focus on 2018 -- between Uribe and Bob Menendez is because
4 Nadine at this point is still involved with Doug Anton. That's
5 that abusive ex-boyfriend that you have heard about in this
6 case. That is the reason that Nadine was so concerned about
7 physical safety. And we'll talk more about this. But at the
8 time Uribe is engaging Doug Anton to kill the Parra case --
9 that's the evidence, not my argument. That's the evidence. At
10 that time Nadine is dating Doug Anton and has been for years.
11 None of that was in the government's case. They instead want
12 you to accept the story, which has no support beyond a piece of
13 Uribe's testimony, just that, that Bob actually struck that
14 deal in February 2018. That is not credible. That is not
15 supported by evidence.

16 That should not take much of your time when you go
17 back to deliberate. Again, the evidence is on one side of the
18 ledger here. And they have the burden, so even if the evidence
19 is 50-50, I would submit to you that does not go to the
20 government's theory. But it is not 50-50. It is on one side,
21 that Uribe is lying about having a deal with Bob and Nadine,
22 because the truth shows that they got Doug Anton to stop and
23 kill this case.

24 A similar piece of proof to show how unreliable and
25 unproven the story is is what happened during the charged

07aWmen1

Summation - Mr. Fee

1 conspiracy in 2018, another reason the prosecutors really don't
2 want you to focus on this time period and this proof, is Bob
3 and Nadine broke up. OK? They broke up at sometime in the
4 fall of 2018. You have seen so many text messages between
5 these two. None of them show them talking about a crime. It
6 showed this -- Bob breaking up with Nadine, because she was
7 still with Doug Anton, this horrible ex-boyfriend.

8 Now, remember, by Uribe's account, by the government's
9 story, this is -- right here, right now -- month, like, 10 and
10 11 of the criminal agreement with José Uribe. True. This is
11 the heart of the alleged conspiracy.

12 What do you see happening?

13 They're breaking up. OK? They don't mention a thing
14 in these texts, and this is just what I'm telling you. You can
15 look at all of them. They don't mention a thing in these texts
16 about any sort of plans or agreements. There's not even any
17 implicit suggestion, like, hey, we're breaking up, but let's
18 keep that thing going. All right? Don't take this personally.
19 I still want our bribe scheme to keep going, but I'm totally
20 breaking up with you. Give me my stuff back; I don't ever want
21 to see you again.

22 You don't see any of that. You see them pouring their
23 hearts out, having a breakup, Bob being sad that whatever was
24 going on with her and Doug was going on and her being upset and
25 trying to get him back. This does not make sense. The

07aWmen1

Summation - Mr. Fee

1 government's theory does not make sense. Step one, go on a
2 handful of dates with Nadine, this very exciting new
3 girlfriend. Step two, start vast criminal conspiracy. Step
4 three, break up with Nadine, but don't mention, hey, let's keep
5 that conspiracy going.

6 It's totally disconnected from reality, the story
7 you're being asked to accept. I genuinely -- it is
8 disconnected from the evidence in this case, the story that
9 there is an ongoing bribery scheme happening right here and
10 right now while they are breaking up. And by the way, at the
11 bottom you see José Uribe is still working with Doug Anton on
12 the deal he actually struck. This proves it. Bob and Nadine
13 are broken up. Bob reaches out. Bob tells Katia after -- you
14 heard her testify. Katia is asked by Nadine to get him back,
15 and this is Bob's response: I can't get over it. She's still
16 with Doug. Maybe time will heal wounds but not today.

17 Like, a week earlier, they're broken up. A week
18 earlier, Uribe to Hana, you never told me what your friend
19 said. Don't worry, I don't want anybody to harm Anita. His
20 friend is Doug Anton. You saw the evidence that José Uribe
21 wanted Doug Anton to stop and kill the investigation. He's a
22 lawyer. You heard that. It's in evidence. This is reality.
23 This is the truth. You did not see this. You did not even
24 hear a reference to this year when the prosecutors were talking
25 about the Uribe scheme.

07aWmen1

Summation - Mr. Fee

1 Why? This is why. This is why.

2 Just a little bit more about Uribe. Another way you
3 know he was running a deception on Bob is exactly what we ran
4 through about Uribe avoiding -- avoiding -- meetings with Bob.
5 Again, don't take my word for it. Don't take any lawyer's word
6 for anything. Look at the proof.

7 June 2018, this is Uribe telling Hana: Cancel
8 tomorrow. We are not ready. We need to have a definition of
9 the fund-raiser before we meet.

10 Uribe's not ready for what? The government's story is
11 that you have entered into an agreement with Bob and Nadine,
12 six months before this, five or six months before this. What
13 are you not ready for?

14 January 2019, Hana: Hey, you want to get dinner with
15 Bob? Hana. Uribe tells Hana: Let's do next week, brother.
16 This is, like, the most important person in Uribe's life, like,
17 my Anita. Right? I mean he cares about himself, but he's
18 telling you he's really worried about his Anita. Whatever his
19 motivation was, Bob, if you accept the government's story, is
20 super important, and Bob, if you accept the government's story,
21 already has known about his criminal agreements with Uribe.
22 And Uribe -- he will not go see this guy.

23 April 6: Bob and I are going to my house if you want
24 to come by. This is Nadine.

25 Hey, man, you want to get a meeting with Bob, this is

07aWmen1

Summation - Mr. Fee

1 the chance. This why you're giving me that car. Where
2 nobody's telling Bob about the car -- you have heard tons of
3 evidence about that -- Nadine and José are not telling Bob
4 about the car. Uribe turns it down: You know what? I think
5 he needs the rest.

6 Later that day: Let me know. I can meet you.

7 Uribe: It's a long weekend. Your friend has to be
8 back next week. Enjoy it -- meaning I don't want to see him.

9 Come over, August 6, I passed out. This is the one
10 you may remember he wasn't passed out. This is when he's still
11 texting and calling, hours. When Nadine texts him, he's on his
12 phone, and hours later he's still texting and calling.

13 Again, the government can't explain any of this. They
14 just don't. They just don't. They just ignore it. They move
15 on. It's not addressed. I bet you'll hear this called a
16 distraction. This will be called a distraction because it
17 doesn't help the story. But this is proof. It is proof that
18 the inference -- because that's all they have, is an
19 inference -- that this criminal conspiracy existed is not true.
20 The reason -- the reason -- Uribe doesn't want to meet with Bob
21 is because he wants to pick the right moment. Because this is
22 a deception. Right? That's why he's learning about, hey,
23 truckers are being laid off. That's why he's doing the
24 fund-raiser.

25 Again, the government says the conspiracy is locked

07aWmen1

Summation - Mr. Fee

1 and loaded for every one of these events. That's obviously not
2 true. Uribe has a plan to hit Bob at the right moment in the
3 right way with what he really needs, which is Bob to credit
4 that this is a bad case, that the Parra case is a bad case,
5 help us.

6 All right. Let's finish with Uribe by talking about
7 this little bell and the *culito* meetings. I do think these are
8 part of the things where he's embellishing. Why do they
9 matter?

10 MR. MONTELEONI: Vouching.

11 MR. FEE: I do think the evidence shows you --

12 THE COURT: All right. Yes.

13 Go ahead.

14 MR. FEE: I do think the evidence shows you that this
15 is part of the things he's embellishing, but let's just be very
16 clear. Why do these two anecdotes, the little bell encounter
17 and the Segovia conversation, why do they matter to the
18 government's case? Well, I'll tell you this. The reason they
19 matter is they're not incriminating. They're not. Even, as I
20 said, even by Uribe's account, what he says about these two
21 things do not involve Bob doing anything. They don't even
22 involve Bob talking about any aspect of the criminal scheme.
23 None. Just on this account. So that's done.

24 When you cut through the rhetoric, the adjectives, the
25 arguments, it's just not incriminating, these meetings. 100

07aWmen1

Summation - Mr. Fee

1 percent. But I do think they matter in another sense, because
2 the prosecutors are treating these as important. And again, if
3 these are the lynchpin of your arguments and the inferences you
4 want to draw, I genuinely think you need to deeply question the
5 story you're being asked to accept.

6 MR. MONTELEONI: Vouching again.

7 THE COURT: No. I'll allow that.

8 MR. FEE: Two points.

9 They want you to believe that these little details are
10 a sign of a truth teller. Right? Hey, look at the rich detail
11 of his descriptions of the bell. That is a sign of a truth
12 teller. That is not a sign of a truth teller. That's a sign
13 of somebody who knows just what the prosecutor says, that when
14 you want people to believe what you're saying, you add some
15 little details. I think your common sense tells you that.

16 Two, Uribe's not a truth teller. Like, he's not.
17 He's not. I am not saying that you reject everything the guy
18 says. It's evidence here. You have to deal with it. But I
19 don't think you should just -- excuse me. I don't think the
20 evidence shows that you should just accept every detail,
21 especially when it is being exaggerated as proof of a criminal
22 scheme. OK?

23 So let's focus here.

24 The way they corroborate this story of the little bell
25 is that text about Nadine buying a bell. Again, this is that

07aWmen1

Summation - Mr. Fee

1 oak tree corroboration. Right? If Nadine has a bell in her
2 house and Uribe saw it, does that prove that Bob rang a bell
3 shows you that he controlled Nadine's every action? Because
4 that's actually the argument the prosecutor made. He said the
5 little bell shows you that Bob is in charge of the charged
6 crimes. That's where we're at right now. That's the level of
7 inference you're being asked to draw.

8 It doesn't. That is not reasonable inference. Full
9 stop.

10 It is also not corroboration that she had a bell in
11 the house or ever used the word "bell" in a text message, that
12 what Uribe saw actually happened. And also, I would say about
13 both Segovia and the bell meeting, Uribe tells both of these
14 stories where Nadine leaves the room. She leaves the room.
15 And again, I would submit to you that your common sense tells
16 you why he created stories where Nadine leaves the room.
17 Because it makes him necessary. He is the only one who can
18 tell these little anecdotes.

19 I also would submit to you that the evidence does not
20 suggest that Nadine would leave the room for these discussions.
21 And all the actual evidence we have about any encounter
22 involving Uribe, Nadine and Bob, Nadine is in the room --
23 except at Segovia, which I'm going to talk about. Nadine and
24 José, as you have seen in the evidence, were keeping
25 information from Bob. There is no reason Nadine would need to

07aWmen1

Summation - Mr. Fee

1 leave the room so far as José and Nadine know, because they
2 have all the information about the conspiracy, not Bob.

3 So let me just respond a little bit to the claim what;
4 the little bell anecdote is being used for. I think what the
5 prosecutor said, or I believe, my memory tells me what the
6 prosecutor said is that the little bell shows that Bob was in
7 charge; that you can take that moment and just reject the
8 evidence that you have actually seen of Nadine telling Uribe
9 not to tell Bob things, the testimony of Uribe, uniformly, that
10 he did not tell Bob about this scheme and that he never saw
11 Nadine tell Bob about the scheme. Reject all of that, because
12 he rang a little bell. That he's in control.

13 And then the prosecutor did say in the summation that,
14 yes, you also saw, showing his control of Nadine, that he would
15 sometimes use Find My iPhone feature -- Bob -- to check in on
16 Nadine. And then -- here's what I want to talk about -- the
17 prosecutor said the reason Bob was doing that was a
18 "distraction." That's the word he used. The reason that Bob
19 is checking in on Nadine is a distraction. It's not relevant.

20 In what world is this a distraction? The evidence --
21 the evidence -- has shown you overwhelmingly, to the point
22 where yesterday the prosecutor actually said this wasn't
23 disputed -- the evidence has shown you that Nadine feared for
24 her physical safety during this period, this exact period.
25 This is not the entirety of the case, this period where they're

07aWmen1

Summation - Mr. Fee

1 using the Find My iPhone feature. She was concerned about Doug
2 Anton assaulting her. That's in the evidence. Katia told you.
3 Her sister told you. She hasn't seen any of the evidence in
4 this case. She was asked, hey, have you ever heard them talk
5 about find my iPhone? Yeah. Nadine was scared out of her
6 mind. You've seen that Nadine took out a temporary restraining
7 order against Doug Anton, right before this was happening. A
8 distraction.

9 (Continued on next page)

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07A3MEN2

Summation - Mr. Fee

1 MR. FEE: The government is accusing Bob of a bribery
2 scheme. They are accusing Bob of committing a crime. They are
3 saying that everything Nadine knows and does and everything the
4 prosecutors imagine Nadine knows and does, actually Bob knows
5 and does.

6 On the face of it I would submit to you is a ludicrous
7 suggestion. Because you use Find My iPhone, you know the
8 contents of someone's conversation? Because you use Find My
9 iPhone, you know she's really behind on her mortgage in the
10 absence of any other proof?

11 That's the essence of this argument. Like, think of
12 the leap, little bell, ignore all that evidence. That Uribe
13 never said anything about a scheme to Bob. Not once. Little
14 bell, Find My iPhone, Bob is the center of the criminal
15 conspiracy.

16 How do we get over here? Does the evidence get us
17 over here? It does not. Does a reasonable inference get us
18 over here? It does not. It does not. Of course it's not a
19 distraction.

20 And remember how this came out. Remember, this is
21 another example of the shifts in this story. It is just a blob
22 that rolls over evidence the prosecutors' story. If it is bad
23 evidence, just keep going. We'll make it work. If it is
24 evidence that disproves its theory, just swerve around that.

25 They put on a summary chart witness who talked about

07A3MEN2

Summation - Mr. Fee

1 like dozens of Find My iPhone entries. They put that on. They
2 didn't mention the restraining order. They didn't mention
3 Nadine's hospitalization. They didn't mention that she was
4 texting others about how Doug, at that moment, was still
5 stalking her. It's in the record. We brought it out on
6 defense. You would not have heard a single word about the
7 truthful reason that Bob at that time was using Find My iPhone
8 to make sure his new girlfriend wasn't getting assaulted by her
9 crazy ex-boyfriend.

10 The evidence is only on one side on this question.
11 The evidence is only on one side. We don't have the burden,
12 they do. But the evidence is on our side.

13 This is not a credible story you are being told. And
14 you will hear more in the next prosecutor summation. I assure
15 you. More theories. More rolling blob of shifting and
16 evolving inferences that you just know is true because there's
17 devastating evidence.

18 Ask yourself when you hear that, where is it? Where
19 is it? Do I trust the story? Do I trust the story? What
20 about all the stuff you abandoned in your summation? What
21 about all the stuff you don't mention? What about the stuff I
22 can't even remember happened eight weeks ago that the
23 prosecutors have decided does not help. Does not help get a
24 conviction.

25 Do you trust any aspect of what they're trying to tell

07A3MEN2

Summation - Mr. Fee

1 you if you didn't actually see or hear it? Genuinely see or
2 hear it in this case. I submit to you the evidence is
3 overwhelmingly clear that this story is shaky and rotten to its
4 core.

5 Same thing with that phone. The first time you heard
6 about what they now call the flip phone that Nadine used for a
7 period of time, the first time you heard about it, it was on a
8 summary chart by another FBI agent. By the way, another FBI
9 agent who did not investigate this case and knows literally
10 nothing about this case and just read charts. That is the
11 overwhelming majority of the proof you heard from the
12 government.

13 The first time you heard about that phone you had a
14 prosecutor ask one of those summary chart people, hey, what's
15 that? The 007 phone. That was in a text Nadine wrote. They
16 called it the 007 phone, and they sat down.

17 They are charging Bob as conspiring with Nadine to act
18 as an agent of Egypt. The argument in putting that proof to
19 you, devoid of all the other evidence that shows why she had
20 that phone, and I'll show you the argument, is, oh, 007 is a
21 spy. You know that spies have 007 phones. That's the quality
22 of the inferences they want you to draw. That's how this
23 started.

24 Now in the summation, it's now undisputed she got the
25 phone because she was worried about her stalker ex-boyfriend.

07A3MEN2

Summation - Mr. Fee

1 Who mentioned that boyfriend? Who mentioned he was stalking
2 her? Who put in the proof that he was actually -- she called
3 it spoofing. He was in her iPhone account sending messages.
4 Real crazy ex-boyfriend stuff. And then the 007 phone,
5 yesterday was the flip phone. But hey, hey, it doesn't matter.
6 It doesn't matter why she got the phone. But it does matter
7 they showed you one call on that phone. One call that nobody
8 recorded, that nobody overheard. And they say it somehow
9 helped prove one of the conspiracies. It doesn't.

10 There were 65 calls during that period where Nadine's
11 iPhone was getting hacked by this crazy guy. And they showed
12 you one and said it's still proof of a conspiracy because
13 Nadine was not the subscriber on the phone. Right. They
14 still, like, they still want to shift around and find the
15 evidence that only gets you to one place.

16 By the way, the subscriber, it was Ro and Sandy Sorce.
17 They're friends of Nadine who helped her when she was being
18 tormented by this dude. That's the real subscriber.

19 Again, this is the proof, these are the building
20 blocks of the story they want you to adopt. The evidence
21 disproves their case.

22 The next part of this story is the call with Grewal.
23 Listen, Bob reached out to Gurbir Grewal. Obviously, we had a
24 human being, thank goodness, who testified about that. And the
25 testimony from Grewal made absolutely clear that everything Bob

07A3MEN2

Summation - Mr. Fee

1 said to him was accurate, and was totally the right thing to
2 do.

3 This is Grewal. He didn't say he wanted the case
4 dismissed. He didn't even ask you to call the prosecutors on
5 any particular case. He didn't ask you to call anybody. He
6 raised concerns from constituents. No case name.

7 Prosecutors talked about Grewal had to insulate his
8 team. There was no team to insulate, because Grewal wasn't
9 even told the case that was the subject of this call.

10 By the way, they pop up the website for Bob. Bob's,
11 like, official Senate website a bunch to show you -- this is
12 the quality of proof you are getting -- to show the website
13 says he cannot overturn or influence a criminal prosecution.
14 That's what that website says.

15 Bob never in any of the events in this case, there is
16 no proof that Bob ever tried to overturn a prosecution. There
17 is not even proof he tried to influence a prosecution. There
18 isn't. He didn't mention the name of the case.

19 And by the way, if he had mentioned the name of the
20 case, there would have been nothing wrong with that. Bob had
21 gotten a complaint, justifiably, about a bad prosecution that
22 would have put out of work a lot of his constituents and he
23 raised it as a bad case.

24 You know who else raised it as a bad case? A man that
25 the government doesn't allege to be engaged in any sort of

07A3MEN2

Summation - Mr. Fee

1 bribery scheme, Michael Critchley. He said exactly the same
2 thing.

3 And listen, Grewal said he wasn't going to raise this
4 with the prosecutors because he has this policy you heard that
5 nobody knew about. There is no proof Bob knew about it or
6 Critchley knew about it. He wasn't going to raise this with
7 the prosecutors because that was his policy.

8 He should have raised it. Because reasonable, smart
9 people when they heard about this case, Critchley, Bob, had
10 exactly the same reaction. Had exactly the right reaction.
11 This was a nonsense case and it was going to hurt a lot of
12 hardworking Latino folks in Bob's state.

13 By the way, that's what happened with the case. It
14 crumbled.

15 And I just want to point out, this is very similar to
16 what they say about the call to McKinney. You have like
17 thousands of rows of summary charts and long stories about what
18 this all means. Look at what Bob actually did. What we
19 actually know he did with Grewal, with McKinney. Grewal there
20 is a call and a meeting and Bob moves on. He raises the
21 constituent's concern, nobody says he threatens, demands,
22 curses, you know, pounds the table.

23 It's Grewal, McKinney, and Sellinger, they're all on
24 the same line. He raises the concern and then he moves on
25 forever. That's actually the evidence. After the last meeting

07A3MEN2

Summation - Mr. Fee

1 with Grewal, Bob never mentions this case to anyone in the
2 state or federal government ever again. One meeting. One
3 meeting that right in front of you Grewal tells you no threats,
4 no case name, no request for dismissal. Raised a constituent
5 concern about selective prosecution. And then moved on
6 forever. This is not a complicated event.

7 And it is the same with McKinney, which we'll talk
8 about. Two-to-four-minute phone call raises a concern about a
9 constituent. Never again mentions the word IS EG based on this
10 record to anyone in the state or federal government ever again.
11 That's it. That's it. That's it.

12 And the absence of evidence after these events is
13 important. It is meaningful. It is. This is an inference you
14 can draw. What does your common sense tell you would happen if
15 Bob was on the take? Right. Like this is the object of the
16 criminal conspiracy. He has this meeting with Grewal where
17 Grewal is like, I don't want you to tell me because I'm not
18 going to raise this up. I hear you, selective prosecution,
19 constituent New Jersey, I hear you. That's good, Bob. Have a
20 nice day.

21 In reality, the evidence shows you Bob does nothing.
22 If there was a criminal scheme. If a guy like Uribe had Bob on
23 the take and had the threat of that hanging over Bob, that's
24 what the bribe payer has, if you don't deliver, Bob, I can ruin
25 your life. If this was true, and there is a lot of evidence

07A3MEN2

Summation - Mr. Fee

1 disproving that Bob ever did anything in exchange for a bribe,
2 but let's just take it for a moment. If this was true,
3 wouldn't Bob have done something more? Like a followup phone
4 call? A text? An e-mail? Send a staffer over? Have another
5 meeting? Try? Nothing. Literally nothing ever happens. The
6 name is not even conveyed. There is no consequence that Bob is
7 worried about based on this evidence.

8 And I would submit that is why in these interactions
9 you see the prosecutors hyper focused on minutia of these
10 really brief, really discrete meetings. Right. This is why
11 you hear them spend quite some time asking Ted McKinney did Bob
12 say please. Right. This is why you hear, you heard it again
13 in the summation, Bob seemed a little irked that Grewal brought
14 his deputy. Or that when the deputy left, a person that nobody
15 has heard from, he said it felt gross.

16 That's why they're hyper focused on those sorts of
17 details because there's nothing else. There is no evidence
18 that Bob was actually trying to accomplish anything.

19 And yes, of course, the law says they don't have to
20 prove that he succeeded in the object of the bribery scheme.
21 Of course that's the law. But, it is 100 percent relevant to
22 assess the evidence of what Bob did and did not do because it
23 shows you the truth.

24 It's all inference in the prosecutor's story. It is
25 all inference. Of course you should look at what he did. Of

07A3MEN2

Summation - Mr. Fee

1 course you should look at was he actually trying to achieve
2 some goal here, or was he just doing what every elected
3 official should do. You get a concern, you raise it with the
4 right person, you move on.

5 Because, by the way, part of the reason Bob moves on
6 is he has no authority over Gurbir Grewal. Yeah, listen, I'm
7 sure Grewal took his call, the evidence shows you that Grewal
8 took his call because he was a U.S. senator. But you also
9 heard that a senator has zero authority. He can't make Grewal
10 do anything. You and I have as much official authority over
11 Grewal as Bob does. To be clear, he gets that meeting because
12 of who he is. But there's no way for him to even exert more
13 authority over Grewal.

14 So what they need to prove in a bribery case, and
15 you're going to hear more about this from other counsel as well
16 I'm sure, is a quid pro quo. This for that. You are going to
17 hear this in the instructions, you've heard this before. The
18 "this" here for the bribery scheme with Uribe is, they say, the
19 car. Right. The car payments. That's the "this." Because
20 we're talking about the "for that" today. Meaning, like, what
21 was Bob asked to do, and what did he do it in exchange for.
22 Yesterday we talked about the "this."

23 And a lot of times they want to talk about the cash
24 and the gold and say, hey, you just know this a bribe. But, on
25 this scheme, the prosecutor said that Bob actually knew that

07A3MEN2

Summation - Mr. Fee

1 Uribe was making the payments. Oh, here it is. And they point
2 to one thing. One piece of evidence. One. Because remember,
3 the other evidence did not help them on this. Uribe said he
4 never told them. The many, many text messages and e-mails,
5 nobody ever tells Bob that Uribe's making car payments.
6 Nobody. So there's nothing else in the record other than this
7 text. So of course they're going to make an argument about
8 this text.

9 Here's the text. It is in April. Nadine tells Bob,
10 Jose called Leon at Ray Catena to make the arrangements for my
11 car. The inference being argued is that this text alone,
12 nothing else, shows you that Menendez knew full well that Uribe
13 was paying for Nadine's Mercedes.

14 That's not true.

15 Let's look at the other evidence. Nadine was looking
16 to Bob to help connect her to a car dealer. And that's exactly
17 what she was telling Bob Uribe was doing.

18 So this is just a few months before, and the takeaway
19 is Nadine reaches out to a friend, that's on the government
20 chart, named Patty Mark. We don't know anything else about
21 her. Nadine says I wanted to know if Mark knows anyone at
22 Benzel Busch Prestige Mercedes that I, Nadine, could get a good
23 price on C-300. Bob and I test drove. He said I'm sure Mark
24 knows somebody in the business.

25 This what's happening in the Uribe text. Nadine wants

07A3MEN2

Summation - Mr. Fee

1 a good car dealer. Common senses tell you it can go pretty
2 badly if you don't have, like, a trustworthy car dealer. She's
3 trying to find one. Because she is telling Bob, I am going to
4 buy this car. Look, look at what she says.

5 I could get a good price on a C-300. Bob and I test
6 drove. But the prices are too high monthly to finance. To
7 finance. You're not worried about finance and you're not
8 telling other people you're going to finance it or you're
9 worried about a good price if it's 100 percent paid by a bribe.

10 The point of all this is that Bob doesn't know a good
11 car dealer. He tells her to go to Patty Mark, whoever that is,
12 and Nadine's asking Patty Mark. And then let's go back to that
13 other text. The prior slide, please. Thank you.

14 This is the text, she's telling him that Leon --
15 excuse me, Jose connected her to somebody else at some other
16 car dealer to make the arrangements for my car. She's trying
17 to get connected with a dealer.

18 Folks, this text to Bob does not comport with the
19 theory he knew about a bribe scheme. Ask yourself, using your
20 common sense, why would you need a good car dealer if you knew
21 this was all going to be covered by a bribe? Why are you
22 worried, why are you telling Bob, hey, can you get Patty Mark
23 to find me a car dealer. And Bob says, yeah, go to Patty.
24 Patty probably knows a guy.

25 That's not proof that Bob knows anything about an

07A3MEN2

Summation - Mr. Fee

1 arrangement between Jose and Nadine. That text we saw where
2 she says Bob told me to reach out to you to find a dealer,
3 that's a year into the conspiracy. That's not what you're
4 doing if the government is telling you an accurate story.
5 You're not going to Bob and say how do I find this car. Right?
6 Because four months later, the government says this is proof
7 that Bob knew Jose was getting her the car. It doesn't hold
8 up. It doesn't hold up. And it is so thin as to rely entirely
9 on this text message. The proof of Bob's knowledge of that
10 arrangement is entirely on this text message.

11 Okay. The next thing that happens in this timeline,
12 which I won't go in detail, is Uribe keeps basically annoying
13 Nadine after she gets the car and long after the Grewal meeting
14 to get more updates, and you can see this here. Nadine just
15 stops responding to him. And he's, you know, saying things
16 that are increasingly sort of odd. You don't love me anymore.
17 You got me worried. You never reply to me. Uribe is still
18 worried about getting some relief. Some peace on this.
19 Somebody to tell him that, hey, this prosecution's going to
20 stop. And now he's bothering Nadine about it because he knows
21 that Grewal meeting happened. He's not reaching out to Bob.
22 Not calling Bob. He's reaching out to Nadine.

23 And then you heard about at some point there's a phone
24 call, there is literally one phone call where Bob calls Uribe
25 and says something like don't worry about it, chill out.

07A3MEN2

Summation - Mr. Fee

1 The reason that happens, and you can see it in those
2 charts, is right before that phone call, Nadine calls Bob.
3 Now, we don't know what was said. But I think a fair inference
4 is that Nadine said, hey, Uribe is texting me all the time.
5 I'm ignoring him. Get him to leave me alone. Tell him you
6 followed up on that case, that racist prosecution. Tell him
7 you followed up, make him leave me alone.

8 There is nothing criminal about that. There is no
9 proof that Bob had done anything more about the case. There is
10 no phone calls with Critchley. No more contact with Grewal
11 about the case. Their only proof is Nadine calls Bob after
12 getting all these sort of mildly harassing text messages and
13 says something like Bob, call Jose. And he does. A short
14 call. That's it. That's the only contact in this case between
15 Bob and Jose, until like 10 months later, the meeting at
16 Segovia.

17 And I think we have shown you the proof about what
18 actually happened in this meeting or this dinner or whatever it
19 was. Number 1, it's 2 years after Bob and Uribe first met.
20 And it's I think nine months after that phone call between Bob
21 and Uribe. And it's like a year after Bob did the one thing,
22 raising the prosecution, the selective prosecution concern to
23 Grewal. So this Segovia is far removed from any other events
24 in this case.

25 And what the prosecution theory is, that the one thing

07A3MEN2

Summation - Mr. Fee

1 Uribe tells you about this, this culitos reference, which
2 talked about all the things Uribe doesn't say were said by Bob.
3 But that is a reference to the scheme, where literally nothing
4 has happened for a year, for at least nine months. And the
5 idea that nine months later, Bob at a dinner just blurts out I
6 saved your ass, while he's also this, like, controlling
7 criminal mastermind who never puts anything in writing, has
8 Nadine have all these meetings, you know, to accept this
9 theory, you have to explain all the evidence you don't see
10 about Bob.

11 But now, the inference is that he blurts out I saved
12 your ass twice. It's basically something about the scheme. I
13 think the evidence shows you that that's nonsense. Let's take
14 it on its face. Let's just say it. Bob doesn't say to Uribe,
15 hey, thanks for getting Nadine a Mercedes. Hey, thanks for
16 taking care of us. I took care of you. Hey, you know, it was
17 really nothing. I was happy to do it. Nothing about that.
18 Just I saved your ass twice.

19 Think about this. Think about what's happening here.
20 I don't think the evidence shows this is a credible story. The
21 prosecutors are not alleging that Uribe still needed something
22 from Bob. They're not alleging there was any reason they had
23 to discuss Bob's performance in this supposed conspiracy.
24 There is nothing happening. There is no reason that you would
25 expect this encounter to happen. In fact, you know from the

07A3MEN2

Summation - Mr. Fee

1 proof that Uribe and Nadine had texted that Uribe was already
2 at Segovia that night. He was already there drinking. Bob had
3 no idea.

4 The proof shows you that Uribe would be there. What
5 happens that night, Uribe says this -- the evidence shows
6 this -- is Uribe is already drinking with a friend at Segovia,
7 and you know from his own testimony that at this time in his
8 life he was going out to dinner and getting drunk and using
9 Xanax, he said that to you. This is the time in his life where
10 he would go out three or four times a week to dinner and get
11 drunk. So take that into account when considering his memory
12 of these events.

13 But his account is he's there drinking, he goes to
14 dinner, he walks over to the table and sits down with Bob,
15 Nadine, and Nadine's, like, young 20s daughter. That's who is
16 at that table. And again, Bob came there with Nadine and
17 Sabine, and Jose Uribe effectively invites himself over, having
18 already been drinking there for quite some time.

19 So, Bob has this drunk, maybe high guy at the table
20 that he hasn't talked to in nine months, and only knows really
21 pretty marginally from the fundraiser and that meeting at 41
22 Jane as somebody that Nadine knows. And that's, I would submit
23 to you, by far the most reasonable inference to draw from the
24 texts that the prosecutors have spent a lot of time on. Right.
25 It's at this dinner Bob says, hey, Nadine, why don't you go to

07A3MEN2

Summation - Mr. Fee

1 the bathroom. And I would submit to you that the inference to
2 be reasonably drawn from that is that Bob wanted Nadine and
3 Sabine to go to the bathroom so he could tell a drunk and high
4 Jose Uribe to go somewhere else. I'm trying to have a nice
5 dinner with my girlfriend and her daughter.

6 That's the inference to draw, folks. This culitos
7 things only exists in Uribe's mind. It doesn't incriminate
8 Bob, but I submit the evidence doesn't support it having any
9 connection, any connection to any sort of scheme.

10 Let's move on.

11 THE COURT: Moving on to a new area, sir, why don't we
12 take a midmorning break.

13 Ladies and gentlemen, 10 minutes, 15 minutes.

14 (Jury excused)

15 MR. MONTELEONI: Your Honor, I have an application.

16 THE COURT: Yes, sir. You may be seated in the
17 courtroom.

18 MR. MONTELEONI: So, as you know, the Court precluded
19 any evidence of acts of domestic abuse, including
20 hospitalizations involving Doug Anton, the ex-boyfriend. And
21 in making a bunch of statements about Doug Anton and what the
22 evidence shows -- that we don't agree with -- defense counsel
23 said you've heard about the hospitalizations in that
24 connection. It was clearly violating the Court's ruling.

25 Now, I believe that they may be referencing, there is

07A3MEN2

Summation - Mr. Fee

1 one text message that was introduced before we filed this
2 motion, before we understood that defense counsel was intending
3 to put in this type of prejudicial evidence, and that text
4 refers to Nadine having been in the hospital for a fall. It
5 does not reference any domestic abuse.

6 This is prejudicial and inflammatory and we would
7 request a curative instruction.

8 THE COURT: Mr. Fee.

9 MR. FEE: Your Honor, I stuck to the evidence. They
10 put in the evidence that she was hospitalized at that time
11 period.

12 THE COURT: My recollection is you connected the
13 hospitalization to a crazy ex-boyfriend. And I don't think the
14 evidence supports that. If I remember correctly. You can tell
15 me otherwise, but I do remember a text referencing her
16 hospitalization.

17 Now, if somebody can show me that it was connected in
18 some way to what you characterized as a crazy ex-boyfriend,
19 I'll listen to that.

20 MR. MONTELEONI: The message that's in evidence I
21 think they may be referring to is Government Exhibit A101-1.
22 It doesn't on its face reference the ex-boyfriend. I think we
23 can speculate that, though she said it was from a fall, it may
24 in fact have had to do with the ex-boyfriend. I don't
25 personally know.

07A3MEN2

Summation - Mr. Fee

1 THE COURT: Go ahead. What is the point? If indeed
2 it may have to do with the ex-boyfriend, what's the issue?

3 MR. MONTELEONI: The issue is 403. The reason for
4 excluding the allegations of domestic abuse isn't that they
5 were not supported by evidence. It is they were inflammatory,
6 and this inflammatory connection is totally improper for him to
7 draw.

8 THE COURT: What's the instruction you're seeking?

9 MR. MONTELEONI: We would propose an instruction that
10 Mr. Fee referenced certain acts that the defense allegedly
11 brought out pertaining to Nadine's relationship with Doug
12 Anton, her ex-boyfriend, including hospitalization, and
13 stalking.

14 I'm instructing you that there are no allegations of
15 domestic abuse or hospitalizations connected to domestic abuse
16 in the record, and that I already ruled that neither party
17 should introduce such evidence because they are irrelevant to
18 your determination of whether the government has or has not
19 proven its case.

20 THE COURT: Just a moment.

21 MR. FEE: Your Honor, can I read to you my reference?

22 THE COURT: I just want to get this down.

23 No, I remember thinking it was quite artful. Let me
24 read this.

25 Yes, Mr. Fee.

07A3MEN2

Summation - Mr. Fee

1 MR. FEE: Your Honor, the reference was they didn't
2 mention the restraining order, they didn't mention Nadine's
3 hospitalization, they didn't mention she was texting others
4 about how Doug at that moment was still stalking her.

5 THE COURT: You make the hospitalization reference
6 there clearly in connection with what you characterize as the
7 crazy ex-boyfriend. That's the issue.

8 MR. FEE: Your Honor, they put in the evidence of the
9 hospitalization. I'm only referencing the fact that there is a
10 hospitalization.

11 THE COURT: You're connecting it to the crazy
12 ex-boyfriend, are you not?

13 MR. FEE: I'm not, your Honor.

14 THE COURT: Read it to me again. I don't have it.

15 MR. MONTELEONI: I can read it, your Honor.

16 THE COURT: You both can read it. Even I can read it.
17 It's not a contest as to reading.

18 MR. FEE: I want Mr. Monteleoni to read it.

19 THE COURT: Gentlemen. Go ahead, sir.

20 MR. MONTELEONI: Mr. Fee said they put that on. They
21 didn't --

22 THE COURT: What page?

23 MR. MONTELEONI: It's on the LiveNote.

24 THE COURT: On the left you'll have the reference.

25 MR. MONTELEONI: 588. I'm not even familiar enough

07A3MEN2

Summation - Mr. Fee

1 with LiveNote. 588 of the LiveNote.

2 THE COURT: Mine don't track with that number.

3 MR. MONTELEONI: He said -- sorry. 587, line 24 going
4 into 588.

5 He said: They put that on. They didn't mention the
6 restraining order. They didn't mention Nadine's
7 hospitalization. They didn't mention that she was texting
8 others about how Doug at that moment was still stalking her.
9 It's in the record, we brought it out on defense. You would
10 not have heard a single word about the truthful reason that Bob
11 at that time was using Find My iPhone to make sure his new
12 girlfriend wasn't getting assaulted by her crazy ex-boyfriend.

13 So not only is there a connection of this
14 hospitalization to the allegations of abuse that were precluded
15 expressly, but it is also done in a way to suggest that this is
16 the government hiding evidence from the jury, which is totally
17 improper when it is a topic that has been excluded.

18 THE COURT: If you remember my ruling, when I thought
19 the defense was characterizing my ruling too narrowly when it
20 referenced hospitalizations, and I think I said that in the
21 back and forth we had that characterizing it as something -- I
22 forgot the word -- in hospitalizations was an unfairly narrow
23 characterization of my preclusion order.

24 Mr. Fee.

25 MR. FEE: So your Honor, this was designed to comply

07A3MEN2

Summation - Mr. Fee

1 with that order. I want to show you.

2 THE COURT: It couldn't have been, because
3 Mr. Weitzman specifically wrote that what the government was
4 doing was -- I'm sorry -- what the defense was doing complied
5 with my order because it did not include hospitalizations. And
6 I specifically said that was too narrow a reading of my order.

7 MR. FEE: Your Honor, I would submit to you, look at
8 the exhibit that the government put in. What I'm referring to
9 in the section he just read, and it is carefully put. Is the
10 reason Bob is checking on Nadine. Look at GX A101-1 that the
11 government put in.

12 THE COURT: Somebody put it up.

13 MR. FEE: Mr. Hamill I think has it. The first one is
14 when she talks about the hospitalization.

15 THE COURT: Let me read it.

16 MR. FEE: Then just to preview, it is about the two
17 replies as well. Bob's understanding of what that means.

18 THE COURT: You have to slide it --

19 MR. FEE: Thank you, Mr. Hamill.

20 THE COURT: Are you asking for an inference that the
21 fall was the result of domestic abuse?

22 MR. FEE: I'm not asking them to draw any inference
23 about the hospitalization. Bob knows about all this. And he's
24 worried about her. That's the whole point. I don't say, and I
25 have not said, what caused the hospitalization. The text

07A3MEN2

Summation - Mr. Fee

1 message they put in --

2 THE COURT: The inference was clear. I understand
3 your argument. Let me hear from the government.

4 MR. MONTELEONI: Yes, your Honor. It is absolutely
5 irrelevant that she was in the hospital from a fall if it is
6 not connected up with exactly what Mr. Fee connected it up
7 with. I think it is astonishing --

8 THE COURT: Gentlemen, just a moment. Let me frame
9 something here.

10 MR. FEE: Your Honor, the temporary restraining order
11 is in. You admitted it. This is Bob expressing, like, a
12 reluctance to engage with Nadine because of everything that's
13 going on. It is not about who caused it. It's that Bob is
14 worried.

15 THE COURT: I understand that. But it's the
16 connection that you're drawing to domestic abuse that I ruled
17 out of this case.

18 Just let me frame something. What you can't talk
19 about is domestic abuse or hospitalizations. I think you've
20 talked about stalking. Have you done that, Mr. Fee?

21 MR. FEE: Yes.

22 THE COURT: And the spoofing you've talked about.

23 I'm going to tell the jury that you've heard
24 references before the break to domestic abuse and
25 hospitalization. I instruct you that those issues are

07A3MEN2

Summation - Mr. Fee

1 irrelevant to whether or not the government has proven its case
2 beyond a reasonable doubt. They're not part of this
3 litigation.

4 I'm going to leave it at that.

5 MR. MONTELEONI: Your Honor, is there a way that you
6 could indicate that the parties were precluded from putting in
7 evidence relating to that? Because he's saying we hid
8 something from the jury, and I'm not sure that the current
9 curative instruction really adequately addresses the prejudice
10 from that.

11 THE COURT: Mr. Fee, you're standing.

12 MR. FEE: Your Honor, that's way beyond.

13 THE COURT: I think my instruction does it. Take the
14 remainder of the time.

15 (Recess)

16 THE COURT: I've reframed the instruction as follows:
17 You've heard, ladies and gentlemen of the jury, you have heard
18 a reference before the break regarding alleged domestic abuse
19 and hospitalization.

20 I instruct you that there is no evidence in this
21 record that any hospitalization had anything to do with
22 domestic abuse. Domestic abuse and hospitalizations are not
23 part of this litigation.

24 I'll just, rather than repeat, I'll say those issues.

25 Those issues are not part of this litigation and are

07A3MEN2

Summation - Mr. Fee

1 irrelevant to whether or not the government has proved its case
2 beyond a reasonable doubt.

3 Let's bring this jury in. How much longer, Mr. Fee,
4 do you think?

5 MR. FEE: Lunch, your Honor.

6 THE COURT: All right. Thank you. Let's try to bring
7 it to a close by lunch if you can.

8 MR. FEE: Thank you, your Honor.

9 (Jury present)

10 THE COURT: Ladies and gentlemen of the jury, you
11 heard a reference prior to the break regarding alleged domestic
12 abuse and hospitalization.

13 I instruct you that there is no evidence in this
14 record that any hospitalization had anything to do with a
15 domestic abuse. Those issues are not part of this litigation,
16 and are irrelevant to whether or not the government has proven
17 its case beyond a reasonable doubt.

18 Mr. Fee, you may continue.

19 MR. FEE: Thank you, your Honor.

20 Let's talk about the Egypt allegations. So to
21 understand those, you need to understand the evidence about the
22 work of a senator. You heard witnesses talk about the role of
23 the Senate in foreign policy and foreign diplomacy, and you
24 were told by each witness who had anything to say about those
25 subjects that senators play an important role in diplomacy.

07A3MEN2

Summation - Mr. Fee

1 Senators don't take orders from the Executive Branch, from the
2 president, or the State Department on foreign relations.

3 Senators, especially those on the Foreign Relations Committee,
4 have to routinely meet with both civilians and constituents
5 interested in foreign affairs, and foreign officials, to do
6 their jobs well. That's what the witnesses told you about
7 senators on the Foreign Relations Committee.

8 So, look at what senators do. They meet with
9 constituents who care about foreign policy issues, including
10 folks from diaspora countries. And this was Sarah Arkin, a
11 former staffer for Bob. And she talks about that. And she
12 even notes there's many diaspora communities in New Jersey, and
13 this shows you that a senator in New Jersey has to care about
14 his constituents who care about foreign countries to which they
15 have some cultural, familial tie.

16 So let's go from here to the meetings that have been
17 the focus of a lot of the government's story about Egypt.
18 These are the meetings Bob had with Egyptian officials.

19 Now, be clear, there was no witness, no evidence
20 showing that even a single second of those meetings involved
21 anyone talking about Egypt or Mr. Hana paying a bribe to Bob to
22 do something for Egypt. Or an Egyptian official saying, Bob,
23 you have to do this for Egypt. There was no evidence showing
24 that that happened in any of those meetings. These were
25 routine meetings.

07A3MEN2

Summation - Mr. Fee

1 Let's look at one of the pictures the government put
2 in. This was the meeting in March 2018. I think we're on
3 slide 73, Mr. Kelly. Thank you so much.

4 So this was in March 2018. Remember, at this time Bob
5 had been on a few dates with Nadine. And the government's
6 theory is he's already engaged in the conspiracy to serve
7 Egypt, not the U.S.

8 But I would submit your common sense tells you if that
9 was the case, you're not having a meeting in your official
10 office where you have Sarah Arkin snapping a pic. This is not
11 how a spy or somebody taking bribes to help Egypt would act. I
12 think that's what your common sense tells you.

13 You can also see this is routine from how Bob is
14 treating the interactions with Egyptian officials. And again,
15 this is just some of the evidence you have seen. This is Ahmed
16 Helmy sending a request to one of Bob's staffers. It is then
17 circulated among the staff. This is part of the government's
18 story that these are actually proof of the conspiracy. And you
19 see the evidence showing you this is total commonplace.

20 Obviously, the focus of the evidence has been his
21 interactions with Egypt. But you know, because you have heard,
22 that Bob is interacting with foreign officials, foreign
23 intelligence officials, diplomats from countries all over the
24 world. This is just part of the work, and it is commonplace,
25 is what the evidence shows you.

07A3MEN2

Summation - Mr. Fee

1 And by the way, this is another part, a focus of the
2 prosecutor's summation they had that line on their slides, the
3 secrecy. Again, this is part of the shifting theory. The
4 secrecy is about absence of evidence. Right. That's why they
5 have secrecy. When they don't have something to support a
6 theory, they say it might be secret.

7 This is not secrecy. You see the evidence. Bob is
8 meeting with the Egyptians, he's snapping photos with them.
9 When Egyptian officials reach out to him, he gets staff
10 involved. Not things you would do if you were in some secret
11 bribery scheme with Egypt or Hana about Egypt.

12 And by the way, that's true about the Morton's
13 surveillance. They sent a lot of agents to cover a dinner with
14 Egyptian officials and Nadine at like a patio table at a
15 restaurant on a main street in Washington, D.C. There is
16 nothing secret about that. There is nothing you heard about
17 that that suggests there was anything nefarious going on.
18 Remember, the only words heard there was Nadine had said at one
19 point, what else can the love of my life do for you. He could
20 have passed the bread, poured the wine. You have already
21 probably become familiar with Nadine using the phrase "love of
22 my life" a thousand times in all the things you've seen.

23 So again, commonplace events being distorted as proof
24 of the story they want you to adopt.

25 They talked quite a bit about the IS EG consulting

07A3MEN2

Summation - Mr. Fee

1 agreement and about that scheme. And Mr. Hana's lawyer's going
2 to talk more about it. I want to focus on that agreement from
3 Bob's perspective. The evidence has shown you exactly what Bob
4 did. He helped her get a LegalZoom and get a consultant
5 agreement, he reviewed it, and she got that job from Will Hana,
6 and he fired her when she wasn't doing enough work. That's it.
7 That's the story.

8 I would say from Bob's perspective, they want to say
9 that alone proves he knew that these consulting payments were a
10 bribe scheme. Again, Mr. Hana's lawyer will talk about this.

11 Ask yourself. The prosecutors say Nadine and Bob are
12 being showered in cash and gold by Hana. Why would you write
13 down a consulting agreement where the payments are made by
14 check. Is that the sophisticated, smart, you know, center of a
15 criminal conspiracy that you've heard described in the story?
16 Why? There is no explanation for why they do that.

17 You're being showered, they say, in cash and gold. So
18 let's all write down an agreement and pay by check. It doesn't
19 hold up. Everything is trying to be contorted for this story,
20 but the evidence is just not there.

21 So, let's go to what they talk about, the quo, what
22 Bob allegedly did for Egypt. They told you a story in the
23 summation about what he did. I just want to quickly talk about
24 how there isn't proof that anything he did was improper, and
25 certainly no proof it was in exchange for a bribe.

07A3MEN2

Summation - Mr. Fee

1 So the first thing he did was approve these tank
2 rounds, the \$99 million. Part of it you saw was like practice
3 rounds, and part of it was for anti-ISIS activities by Egypt in
4 the Sinai.

5 There is just literally no proof that anyone from
6 Egypt actually asked Bob to do anything about that. And there
7 is literally no proof that anyone in Washington, D.C. in the
8 federal government had one note of opposition to those rounds
9 being given to Egypt. This is not controversial. This is
10 something that is done, as you heard, for the last 40 years in
11 much catastrophically hugely larger amounts giving military aid
12 to Egypt.

13 There is nothing, nothing about Bob doing that because
14 of a bribe or even doing that because of a request from anyone.
15 There is no evidence about it.

16 All they like about it is that Bob happens to approve
17 a sale of arms to Egypt. You know that has been happening in
18 huge amounts before Bob, and in the U.S. government, and it
19 will continue after Bob.

20 The second thing they talk about is that 280 embassy
21 employees e-mail. I'm not going to do more on that. I've said
22 what the evidence shows you about what that meant. The only
23 thing I'll point out, I referenced this. When Bob sent that
24 information out, that was publicly available. He did not send
25 it to an Egyptian official. He did not send it to Nadine.

07A3MEN2

Summation - Mr. Fee

1 If you can put up slide 78, Mr. Kelly, if we're able.
2 He sent it to Nadine. Okay. And then Nadine -- so
3 that's him sending it to Nadine. Just FYI Nadine. And you've
4 seen this information before. This was what was available on
5 the date he sent it or shortly before the date he sent it
6 online.

7 (Continued on next page)

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07aWmen3

Summation - Mr. Fee

1 MR. FEE: Let's go to the next and see what Nadine
2 does with it.

3 She sends it to Will. She just copies and pastes it.
4 Nadine doesn't attribute it to Bob. She doesn't say, hey,
5 here's the things that the Egyptian spymaster wanted. She
6 doesn't say anything, by the way. This is the end of the
7 proof. That's it. There's nothing else showing that the
8 Egyptians wanted this, needed this, used this; that they said:
9 Wow, this is great, you know, terrorists, whatever. This is
10 the end of the proof. OK? So I'm not going to overstate this,
11 but this is what the evidence shows. Bob gets a request from
12 Nadine, who he loves. He gives her public information. Nadine
13 takes that and sends that to Will, the Will you know all about.
14 He is not an Egyptian spymaster. He is what you've heard about
15 in this case. That's the end of the story, from Bob's
16 perspective. It is not proof of a bribery scheme. It is not
17 proof that Bob is a foreign agent.

18 The third thing was that letter and they're using the
19 phrase "ghost writing." Nadine asked him to edit this letter.
20 It was obviously about Egypt's commitment to the United States.
21 Bob edited the letter, and we'll show you some of the edits he
22 made and you can look at it if you want. And then he sent it
23 back to Nadine. There is no proof that anyone in the Egyptian
24 government ever received this letter. There's no proof that
25 they ever sent this letter to anyone. And of course, the

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Summation - Mr. Fee

1 government doesn't have to prove that, but it does inform what
2 you are being asked to accept about Bob's knowledge and his
3 intent. Right?

4 Think about what the proof has shown. Nadine says:
5 Hey, look at this letter. He writes it. I'm not going to go
6 through this. I would submit to you that this was the right
7 thing for somebody engaging with Egypt to do.

8 Two points:

9 Egypt is an ally for the United States. It is not for
10 us to consider whether that's good, bad great, or whatever.
11 Egypt has been an ally -- you heard the evidence -- for 40
12 years. It's not as though engaging with Egypt on diplomacy is
13 like talking to Darth Vader. OK? They are an ally, and Bob
14 here is revising a letter that has Egypt committing to the
15 things he cares about. Look at it -- joining with the U.S. and
16 our mutual desire to defeat global terrorism; making progress
17 on civil rights issues in Egypt. There is no proof that Bob
18 thought this was special or useful. And I would submit to you
19 that the common sense tells you that it was an opportunity for
20 a diplomat to lock in Egypt on these commitments to the United
21 States. But again, that is the end of the story. He edits it.
22 The text does not change materially, and it goes back to
23 Nadine. That is your proof of the bribery scheme and the
24 foreign agent. That's it.

25 Quick point about the foreign agent charge, and it

07aWmen3

Summation - Mr. Fee

1 really travels with this bribery allegation. One thing. There
2 is no evidence proving that Bob ever did anything in exchange
3 for a bribe to help Egypt. They're arguing about the acts that
4 we just walked through. That's what they're arguing about, but
5 there's no proof. There is no Egyptian. There's no witness
6 who saw somebody give Bob money for Egypt. There's no text.
7 There's no email. There is an absence of proof, so you have to
8 think about the inferences.

9 Second point. A foreign agent charge requires proof
10 that the defendant was an agent, a servant of the foreign
11 principal. The judge will tell you that means acting at the
12 direction and control. Right? So this is more than just
13 hearing a request and acting upon it.

14 And I want to be clear on this point. Every day, you
15 have heard, members of Congress, like Bob, get requests from
16 foreign diplomats, foreign intelligence officials and American
17 citizens who care about what's happening in a foreign country,
18 and congresspeople often do things to make those requests
19 happen. 100 percent normal. Not illegal.

20 When Russia invaded Ukraine and President Zelenskyy
21 came here and spoke to the Senate and the House and said give
22 us --

23 MR. MONTELEONI: Objection.

24 THE COURT: I'll allow it.

25 MR. FEE: And said give us aid, Congress gave them

07aWmen3

Summation - Mr. Fee

1 aid. OK? To comply with the request --

2 THE COURT: At this point, sustained. That's right.

3 MR. FEE: When he says that if Congress were to give
4 aid, if congresspeople were to be moved by the request to help
5 us, says the president, if that happened, under the law you
6 will be instructed on by the judge, that is not illegal. That
7 does not make you a foreign agent. You can do things that
8 others request. You can even be moved by the advocacy or their
9 demand and comply with the request, and you are not committing
10 a crime. What you have to do is actually cede -- cede -- give
11 away direction and control to the principal.

12 They have to prove that happened here beyond a
13 reasonable doubt. They have come nowhere close with the
14 evidence on the Egypt scheme. They don't even have Egyptian
15 officials making demands to Bob, let alone proof that Bob was
16 doing something other than what he thought was right for the
17 interests of the United States and as a diplomat. They have
18 made a big allegation, and it has not been met with proof that
19 meets the standard. Full stop.

20 OK. The next thing they talk about with Egypt, the
21 action is this McKinney call. Let's look at how Ted McKinney
22 described this two to four-minute call right around when it
23 happened. I'm not going to read these or get into the details.
24 My point about these descriptions is what Ted McKinney is
25 saying is at the time this is not dramatic. Right? Like, a

07aWmen3

Summation - Mr. Fee

1 call from a senator, it matters, but there is no heat in here.
2 There was no suggestion he was pressured, threatened. There's
3 no suggestion that this is bad for America. These are U.S.D.A.
4 documents saying we got a request about a constituent concern,
5 and here's the information we need to respond to it.

6 If you want evidence about what happened on that call,
7 you can listen to Ted McKinney. He has nothing to say
8 suggesting Bob made a threat, made a demand, said anything
9 other than, hey, stop hassling IS EG, which I would submit you
10 hear sometimes in politics and in New Jersey, your common sense
11 tells you. But then you have Ted McKinney tell you what he
12 needs to do to get back to the senator. This is at the time.
13 Take his testimony. Take these documents. It tells you all
14 you need to know. There was nothing inappropriate about what
15 Bob was doing.

16 And by the way, the credibility of Bob's actions, why
17 did he do this, they're suggesting that it was inherently
18 suspicious that he was passing on this complaint about the New
19 Jersey business being criticized to the agency that was
20 criticizing it. That's the argument. The evidence has shown
21 that the certifiers IS EG was replacing were not doing their
22 job.

23 Go to the next slide, please.

24 This is part of the evidence. Mr. Hana's counsel will
25 go through more of this. The point is Ted McKinney didn't

07aWmen3

Summation - Mr. Fee

1 agree with this because it was going to slow down trade.

2 That's his job. You heard that. His job is to get as much
3 U.S. product sold abroad as he possibly can. Understandably,
4 he did not like going from multiple certifiers to one
5 certifier. You also heard Ted McKinney's focus was narrow. He
6 did not -- did not -- know, did not care to inquire about the
7 quality of the halal certification.

8 You can hear the evidence about whether IS EG was
9 experienced, whether they were not. The one thing I think you
10 know beyond any doubt, given the evidence here, is that these
11 prior certifiers were doing a bad job. And McKinney didn't
12 care, because it does slow down trade to do careful halal
13 certification. Full stop. So these are different interests at
14 hand here. McKinney wants trade. Bob doesn't want a
15 constituent to get basically criticized out of business. This
16 is a New Jersey business, and it is his friend.

17 By the way, let's make sure we're clear on that. You
18 will not hear any instruction on the law that it is illegal for
19 a public official to act on a request from a constituent who is
20 also a friend. OK? And I would submit, your common sense
21 tells you, you do not want elected officials who don't have
22 friends in their community. You do not want, your common sense
23 should tell you, elected officials who only hang out with,
24 like, CEOs and Fox News anchors. You want people, as you've
25 heard in this case, like Bob, who live in the community, who

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Summation - Mr. Fee

1 know people in the community, who know the different
2 communities. There are Coptic Christians in New Jersey who
3 really care about Egypt. That is part of his job. OK? Don't
4 let that be a part of the story, that it is inherently --
5 inherently -- unlawful to get a request from a friend and act
6 upon it. That is exactly what, I would submit your common
7 sense tells you, an elected official should be doing.

8 One more piece on that tank ammo scheme, the alleged
9 tank ammo scheme. The core of what the prosecutors focused on
10 with that -- because remember, there is no proof that Egypt was
11 asking Bob to approve those \$99 million in anti-ISIS tank
12 rounds. There's no proof. I think common sense tells you
13 Egypt definitely wanted that to be approved. That's the whole
14 point of foreign military aid. And that's lawful. Right? But
15 what they have focused on, in the absence of other proof, is
16 the suggestion that because Bob was updating Nadine or others
17 about approving or expecting to approve those tank rounds, that
18 he therefore must have been doing it because he was either
19 bribed or was a foreign agent. But that's the argument. That
20 actually is the entirety of the argument. The proof beyond a
21 reasonable doubt is that -- the updates to others proves a
22 bribe and that he had ceded, like, the control of his life or
23 control of his decision on Egypt.

24 I just want to be clear. You will not hear any
25 instruction that it is illegal to share updates about arms

07aWmen3

Summation - Mr. Fee

1 sales. You heard evidence that it happens frequently. This is
2 not classified. This is not even nonpublic. The point of many
3 of these events in the arms sale process, you heard, is to
4 update the countries or other interested parties about it. And
5 in fact, you see a lot of other evidence of people other than
6 Bob, his staff, updating Egyptians on other events that the
7 prosecutors have now abandoned but used to say were part of the
8 scheme.

9 Just look at this next slide, please. Sarah Arkin.
10 Again, quickly, this is just Sarah Arkin sharing the letter you
11 saw in this case, not in the summation, but in this case, where
12 Bob is basically asking the State Department to help avoid a
13 conflict over -- remember the GERD, the dam? This is that
14 letter. And you see Sarah Arkin sending it to Karim Assad at
15 the Egypt embassy: Hope you and your family are doing well.
16 Wanted to let you know that the senator sent the following
17 letter today.

18 Again, there is no proof, and there is no law, and you
19 will not hear the judge tell you that there's anything unlawful
20 about updating folks about arms sales processes or about other
21 things that a senator is doing in U.S. foreign relations.

22 OK. Egypt. Done.

23 Let's go to Qatar.

24 There is no reliable proof about any scheme involving
25 Bob with respect to Qatar. I submit to you that is not

07aWmen3

Summation - Mr. Fee

1 rhetoric. It's not hyperbole. There is just no proof. You
2 have charts and you have some press releases and you have a
3 story. But even in those charts and the evidence admitted with
4 those, there's no text message, there's no email, there is
5 nothing showing what this story being told by the prosecutors,
6 whether it is true and reliable. They don't have anyone
7 saying, Bob, you need to do this, you need to introduce Daibes
8 to them, to Heritage, so that Qatar's happy. Bob, Qatar says
9 you have to put out this press release, even though you don't
10 want to, Bob, you have to do it because we bribed you. It is
11 the opposite. The evidence in the record is only on one side
12 of the ledger. Again, we don't have the burden, but we've
13 proven our side of the story here.

14 So there's three things related to Qatar in the proof
15 you've seen at trial, and this just lists them. There's that
16 August 2 statement about Yemen, the August 20 statement about
17 Qatar helping to get folks out of Afghanistan, and then there's
18 a trip in October to Qatar.

19 You have heard not a single piece of evidence about
20 that trip. Put it aside. The statement on August 2 Bob made
21 on behalf of the SFRC thanking Qatar for sending \$100 million
22 to fend off a famine in Yemen. Qatar gave money to help people
23 starving during the civil war in Yemen. That's what this is
24 thanking them for. And again, in the absence of other proof,
25 it is highly relevant to look at what you do have in the record

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Summation - Mr. Fee

1 that reflects why Bob would have done this. Because remember,
2 they need to prove to you that Bob did it because of a bribe.
3 They need to prove that beyond a reasonable doubt. But in the
4 absence of any evidence, they're asking you to accept the
5 story. So let's look at the evidence in the record.

6 Look at everyone who's thanking Qatar for giving aid
7 to Yemen in the runup, preceding Bob's statement -- World Food
8 Program, a bunch of senators. Chris Murphy, from Connecticut,
9 tweets out that he went to Qatar and discussed the possibility
10 of the donation, and then he went to dinner with Qatari
11 officials to celebrate their donation. This is another
12 congressperson, Gregory Meeks, thanking Qatar for its
13 contribution.

14 Don't overcomplicate this. There's no proof in the
15 record. There's really not even something you could use to
16 suggest that there's anything remotely -- remotely --
17 controversial about Bob thanking Qatar for helping stave off a
18 famine in Yemen and the overwhelming universe of other folks
19 doing it and, like, Senator Chris Murphy claiming credit, in
20 part, for convincing Qatar to do it. It shows you what a
21 nonevent this was for Bob, as chairman of the SFRC, to thank
22 Qatar, as everybody basically was doing, for a totally good
23 thing. You don't need to pay a bribe to get that sort of thank
24 you, your common sense tells you.

25 And the same is essentially true about that statement

07aWmen3

Summation - Mr. Fee

1 thanking Qatar for evacuating folks from Afghanistan.

2 Remember, you heard evidence about what was happening in
3 Afghanistan. The U.S. left. The Taliban was taking over.

4 It's chaos. People are going to be hurt. And again,
5 everyone -- before Bob's statement on August 20 and after Bob's
6 statement -- is doing the same thing. They are singling out
7 Qatar for saving people. And then there's that story on CBS
8 News where they're, like, thanking -- they're applauding Qatar
9 for getting out the girls' chess team from Afghanistan, because
10 that's the level of concern folks had about the folks left
11 behind, and Qatar stepped up. And everyone thought it was a
12 good thing. There's been no evidence -- no evidence -- none,
13 not hyperbole, none -- showing that Bob got a request to do
14 this, that Bob had to be convinced to do this, that Bob had to
15 be persuaded or bribed, or whatever, to do this. It would be
16 hard to find a less controversial decision. Certainly in the
17 evidence in this case, you could not find a less controversial
18 decision than Bob issuing a press release thanking Qatar for
19 saving people from death in Afghanistan. Period. Full stop.
20 That's the end of the story.

21 You saw the prosecutors flash up very quickly this
22 S390, a resolution thanking Qatar. The reason that only came
23 up and down quickly is what they said about it. Bob didn't
24 sponsor that, he didn't write it, he didn't cosponsor it.
25 There is no evidence in the record that Bob did anything about

07aWmen3

Summation - Mr. Fee

1 that resolution, a Senate resolution thanking Qatar. Bob put
2 out a press release. They also showed you this resolution. It
3 is, again, disproving the conspiracy.

4 Bob is the chairman of the Senate Foreign Relations
5 Committee. They flashed up this official resolution that
6 another senator wrote, another senator sponsored, another
7 senator introduced, another senator cosponsored. Not Bob.
8 That is not proof of the scheme. It is the opposite of proof
9 of the scheme. And again, they're saying, I think, Daibes
10 noticed it and talks to Bob about it. That is the quality of
11 proof you're being asked to convict upon in this scheme.

12 Do not -- do not -- overcomplicate the scheme. Bob
13 did the right thing. Bob was in line with the universal sweep
14 of other officials in the federal government, NGOs, whatever.
15 And there is an absence of proof on the other side.

16 This Heritage piece of the case, again, there's been
17 no witness to describe this to you. They don't have to call
18 any witnesses. They can make their decisions. My point to you
19 is that you don't have an understanding of any of the
20 connective tissue that was reflected in the prosecutor's story
21 about Heritage. I think the theory is that Heritage somehow
22 was also working for the Qatari government. But there's no
23 proof, other than that Qatari guy who apparently funded
24 Heritage. But there's no proof that they ever talked to Bob,
25 that they ever talked to Bob about Heritage's relations with

07aWmen3

Summation - Mr. Fee

1 Qatar. There's just nothing. There's nothing.

2 And again others will do more on this, but let me just
3 show you briefly, because what it boils down to is this. The
4 prosecutors are saying it's just a timing argument, that that's
5 the proof beyond a reasonable doubt. I would say even if the
6 timing argument was persuasive, it should not meet that burden
7 when you go back to that jury room to deliberate, but it's not
8 persuasive. It actually disproves -- again, disproves -- the
9 allegation that Bob was helping Daibes because of a bribe from
10 Qatar or Heritage, or whatever the theory is.

11 Look at the timeline. So first of all, Heritage is
12 doing diligence -- like, they're investigating whether this is
13 a good deal -- for 14 months. Again, common sense. If this
14 was a bribe, if this was a scheme, would they do that amount of
15 scrutiny of the deal? Ask yourself.

16 But here's the point that really relates to Bob. You
17 see this August 2 on the bottom? August 2, 2021, Senator
18 Menendez's chairman's statements re Qatar. The argument is
19 that you just know that he did that because of a bribe because,
20 in May of 2022, Heritage sent a letter of intent to Daibes.

21 You heard about this during the evidence. The letter
22 of intent was not binding. You know, you actually will walk
23 through the language. It means nothing in the sense that it
24 doesn't bind Heritage to do the investment. And by the way,
25 even just the timing argument, the timing is distant. Period.

07aWmen3

Summation - Mr. Fee

1 But the timing's actually really distant when you think about
2 the actual important date in the deal, which the government
3 doesn't want to focus on. It's at the end of this timeline,
4 January 5, 2023. Heritage does close the deal. They sign a
5 binding agreement to fund the deal. You saw that in evidence.
6 That's in January. It's -- don't make me do the math. It's
7 really far from August 2nd and 20th, 2021. This is what's left
8 of the argument. Even this disproves the theory on Qatar.

9 OK. Let's talk about Phil Sellinger.

10 Again, the prosecution theory here is that Daibes
11 bribes Bob to appoint Esther Suarez and then also bribes Bob to
12 appoint Philip Sellinger. Reject that theory. Again, let's
13 not overcomplicate this.

14 First, there is no evidence that Daibes paid a single
15 dollar or a single piece of gold to Bob in exchange for this
16 action -- for putting up Suarez or putting up Sellinger.
17 There's no evidence. There's the cash and the gold. You're
18 sick of people arguing about that, I would imagine, but they
19 cannot connect that to this. There's no evidence. You need to
20 have the evidence, the connective tissue, to support this
21 theory.

22 That's first.

23 Second, what do they focus on as the proof that Daibes
24 had somehow paid Bob? They show you this email from December
25 23, 2021, and you remember it's that Nadine says to Daibes that

07aWmen3

Summation - Mr. Fee

1 Bob is better having heard the date is postponed. He is
2 fixated on it. Now, the government says this must -- this
3 must, this must -- be about Daibes's trial date, which was
4 adjourned earlier that day.

5 No. 1, the evidence doesn't show you that Daibes was
6 even informed about that adjournment. They have the phone
7 records. They're in evidence. We've shown you there was no
8 call from his attorney to Daibes. There was certainly no call
9 from the attorney to Bob or Nadine that they had any idea that
10 this had happened. There's just no proof that the story they
11 want to tell you with this text message, which would be weak,
12 even if they could do it, there's no proof to support that
13 story. So they say it must be about the case, and by the way,
14 because she said Bob is fixated on it, that proves the bribe.
15 That is actually the proof of the bribe. That's the proof of
16 the whole scheme, that Bob was fixated on it.

17 Bob and Fred have been friends for 30 years. There
18 could be a whole host of things they're talking about here.
19 You heard that Bob was having surgery. You heard that Kate
20 Daibes had health problems. Also, Bob is certainly aware that
21 Daibes has this criminal case. Nobody's going to dispute that.
22 OK? This text is mundane, and it certainly does not go so far
23 as to establish proof beyond a reasonable doubt that Daibes
24 must have bribed Bob to manipulate the U.S. Attorney process.

25 There are no communications in this record between

07aWmen3

Summation - Mr. Fee

1 Daibes and Bob about the U.S. Attorney nomination process.

2 There is no proof in this record that Daibes ever expressed a
3 preference for anyone to Bob. There isn't. There's a
4 stipulation about what Daibes said to his own lawyer, but there
5 is no proof. All of this stuff you saw, there is no proof that
6 Daibes ever even hinted at, hey, isn't Esther pretty cool, or
7 hey, Phil Sellinger, good guy, right. We don't even have that.
8 It's just not there.

9 But let's go a little further. What really confirms
10 to you that Bob was only doing what he did with this nomination
11 process was because it was the right way to do his job, I would
12 submit, that Phil Sellinger pretty effectively does that. We
13 showed you already -- to refresh -- how Sellinger described his
14 single discussion with Bob where Daibes's name came up:

15 This is Sellinger telling you: He didn't pressure
16 you? He didn't threaten me. He wasn't asking me to do
17 anything. And then Sellinger even offered you his belief that
18 Bob wasn't asking Phil Sellinger to do anything unethical or
19 anything improper -- next slide -- at any time, including these
20 conversations or the one conversation that referenced Daibes.

21 And folks, I don't think you can overstate the
22 importance of Sellinger's testimony in disproving the theory,
23 disproving the allegation that Daibes bribed Bob to manipulate
24 Sellinger. This is the theory. Right? Did anything you heard
25 from Phil Sellinger suggest to you that that was the guy you

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Summation - Mr. Fee

were going to make the U.S. Attorney so you can get him to kill a case? Did anything you heard about him or from him suggest to you he was anything other than, like, a super ethical lawyer who was really respected by everyone in New Jersey? The theory is that Bob and Fred picked him to also be corrupt. That's the theory. It is not plausible. It is not supported by evidence.

And Phil Sellinger knew these facts, by the way. Phil Sellinger knows that Bob is friends with Daibes. Remember he went to the wedding; Sellinger talked to Daibes. Sellinger knows that he has this conflict with Fred Daibes. Sellinger knows all the key facts that really you know about this theory. Sellinger knows that he's likely going to be nominated with this conflict. And Sellinger certainly knows what Bob said to him, and Phil Sellinger is telling you this wasn't unethical. Putting aside illegal, this wasn't unethical. And Sellinger knows all that. He has disproven the theory. The government's witnesses on are on our side of the ledger yet again.

This is why the cash and gold starts and finishes everything they do -- because this case dies here. The actions they allege Bob took and the proof that they do not have to show that he did those things because of a bribe -- do not stop with the cash and gold. Do not yield your righteously held beliefs about the lack of proof on all these other elements when you go back to deliberate. Bob should be acquitted given the lack of evidence.

07aWmen3

Summation - Mr. Fee

1 OK. So why? Why then, if there's all this absence of
2 proof, why then, I'm sure you'll ask yourself, why did Bob even
3 mention Daibes to Sellinger? The proof showed you. Sellinger
4 had sued, he had literally sued Fred Daibes because of an
5 investment deal. He had accused Fred Daibes publicly in a
6 civil suit of doing something wrong. And I don't just mean
7 Sellinger's law firm did it, his giant law firm. Phil
8 Sellinger told you he himself reviewed and revised that
9 complaint and told other lawyers to file it. OK?

10 This is an issue, as you heard, if he's going to get
11 nominated and has a pretty bad conflicts issue about one of the
12 cases in that office, that's why Bob brings it up with Phil
13 Sellinger. It's not because of the bribe. It's obviously not
14 because of a bribe, the evidence shows you, because Bob nor
15 anyone who works for him ever brought up Daibes's name to
16 anyone else who was being considered for that spot. Right?
17 You know at least one of the other people, Esther Suarez.
18 There's no evidence, I don't think there's even an argument
19 that Bob ever brought up the Daibes case to Esther Suarez.
20 None. None. The scheme is that Bob was nominating these
21 people -- you heard him, the prosecutor, in his summation go on
22 and on about how entitled he was to think he could manipulate
23 the U.S. Attorney selection process to help kill a case. To do
24 what? For who? When?

25 They didn't even try to prove that Bob mentioned Fred

07aWmen3

Summation - Mr. Fee

1 Daibes to Esther Suarez. Do you have any idea what Esther
2 Suarez thinks about the Fred Daibes case? You do not, because
3 the record is silent. The record actually is silent on whether
4 Bob ever mentioned Daibes to Esther Suarez, and he actually
5 nominated her. He actually put her forward to the president to
6 nominate. He did, like, he put her forward. So how does this
7 scheme track? How does it compute? How does it make sense
8 that the person he tried to get the president to put in that
9 position -- there is 100 percent blank white space that would
10 prove he was doing this because of Daibes. 100 percent, empty,
11 absent. Hold the prosecutors responsible for the gaps in the
12 evidence. You would have to ignore a lot -- a lot -- of
13 exculpatory, innocent evidence to fill in that space and find
14 Bob guilty of this count.

15 And by the way, you know who else agreed with Bob that
16 this was a conflicts issue for Phil Sellinger? The Department
17 of Justice. You heard Phil Sellinger say he raised this issue
18 with the Department of Justice through the formal process that
19 they have, and the Department of Justice told Sellinger, hey,
20 man, it's a conflict. You're recused. That's what Bob said.
21 So the proof they're left with on this is weak. It is actually
22 impossible, I would submit, to take the proof the prosecutor
23 cited as proof of this bribery scheme and find that it proves
24 anything beyond a reasonable doubt. It's truly impossible.
25 I'll show you why.

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Summation - Mr. Fee

1 The focus here was on Soliman's testimony. Remember,
2 he was that adviser who said he talked to Sellinger, and then
3 he says he sent a text to Bob. And the text to Bob said
4 something like: Call Phil; I think you'll like what you hear.
5 This is the proof. This is the proof of the U.S. Attorney
6 bribery scheme. This is it. The rest is rhetoric and, like,
7 stuff.

8 Let's look at what actually happened.

9 So this is the timeline of some of the events in
10 evidence. Menendez first interviews Sellinger in December. He
11 picks -- there's that memo from the White House saying we want
12 diverse candidates, do your best to find qualified diverse
13 candidates. Bob goes with Suarez. He puts her forward to the
14 White House in March. This is obviously reflecting other
15 evidence you've seen. She runs into problems with the vetting
16 process that the White House is doing, not Bob. The White
17 House.

18 April 20, Bob switches to plan B, Phil Sellinger, who
19 is a universally respected lawyer in New Jersey that everybody,
20 including Cory Booker, thinks is qualified. And on April 20,
21 2021, you heard, in evidence, that Senator Menendez tells Phil
22 Sellinger I'm going to nominate you. That's when it happened.
23 That's it. That's the end of the proof. The government has to
24 go a little further, though, because they don't have anything
25 but this. On April 29, Soliman and Sellinger call each other a

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Summation - Mr. Fee

1 bunch of times, and this is when -- and Sellinger testified
2 that during those conversations I never told Soliman -- this is
3 Phil Sellinger -- I never told Soliman that I wasn't recusing.
4 What I told Soliman -- and we'll show you, actually -- is
5 basically: I had this conflict. I have to go through the
6 process. I don't know what the outcome will be.

7 Now, I would submit that common sense tells you he
8 likely had a good sense of what the outcome would be, and you
9 saw where the DOJ eventually came out -- he could not supervise
10 the case. But Sellinger was crystal clear about what he told
11 Soliman. Crystal clear.

12 Is Soliman crystal clear? Let's just go back one
13 slide. I'm sorry.

14 The last thing on this chart on the right is the text
15 that is proof that they are left with for their theory that
16 Daibes bribed Bob to get Sellinger. Soliman texts Bob: I
17 think if you call Sellinger you'll be comfortable with what he
18 says.

19 Two things:

20 No. 1, Bob had already told Sellinger he got the job.
21 OK? That reveals that the theory cannot be right. On April
22 20, Sellinger's getting nominated. Period. Full stop. Suarez
23 has run into trouble at the White House; it's Sellinger's job.
24 So this May conversation is actually irrelevant. But Sellinger
25 is confident that he did not say he could actually supervise

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Summation - Mr. Fee

1 Daibes. He did not say that.

2 Here's what Soliman says. He is not confident in his
3 testimony.

4 Let's go to the next slide.

5 "Q. When you say you will be comfortable with what he says" --
6 that's that text, the prize evidence the government selected --
7 "you don't have a clear recollection of that, right?

8 "A. I do not have a clear recollection."

9 That text meant one of two things. It either meant
10 that he didn't have any, like, issues that would come up in
11 vetting, not a subject that is relevant to the government's
12 theory; or it was that I think Sellinger told me he didn't have
13 to recuse. Right? So Soliman is 50-50.

14 Folks, the burden is proof beyond a reasonable doubt.
15 50-50 literally cannot satisfy that burden. Soliman cannot
16 tell you that this is actually what he was conveying to Bob.
17 He cannot tell you. The prosecutor didn't include these sort
18 of like Shades of Gray, the 50-50. He said you know -- you
19 know, you know, you know, you know -- from this text that Bob
20 understood Sellinger could oversee the Daibes case, therefore,
21 the scheme was a go. There's a lot of problems with that.
22 It's too late. Sellinger already had the job. There's no
23 bribe. Just take that on its face. Soliman actually said I
24 actually don't know which of two things I was conveying. Phil
25 Sellinger is crystal clear that I did not, and would not, have

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Summation - Mr. Fee

1 told Soliman that I could supervise the Daibes case, obviously,
2 because I had to go through the DOJ process.

3 Done. This count is done. The rhetoric would make
4 you think this count had some legs in the summation, I would
5 imagine. They told the story. The story had a beginning, a
6 middle and an end. It made sense. It was kind of interesting,
7 sexy bribes, you know, manipulating the U.S. Attorney process.
8 The evidence that was unremarked upon disproves it. And when
9 you hear again from the prosecutors, because they go last, we
10 don't get to go again, ask yourself when you hear that story
11 how do I know that they're being credible? Because they have
12 not, to date, been selling you a reliable story about this.

13 OK. The last part of this is Vikas Khanna. Remember?
14 This was actually in the summation yesterday. I think the
15 suggestion was that Bob was, like, feeling out Vikas -- and I'm
16 not really honestly clear -- that he was trying to see, hey,
17 maybe Vikas Khanna could help me. I'm just going to mention
18 two lawyers and nothing else. This is, like, maybe like the
19 psychic projection theory of bribery. I don't understand how
20 it actually proves the case, my friends. But let me just tell
21 you something. This, again, is evidence of innocence. What
22 did you hear from Vikas Khanna on cross, like, if Bob was
23 crooked, if Bob had been bribed to get a federal prosecutor to
24 kill the Daibes prosecution, this was the guy to do it with?

25 Vikas Khanna tells you, on cross, that he actually

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Summation - Mr. Fee

1 hosted a fund-raiser for Bob. OK? Like, recently. Vikas
2 Khanna tells you also, by the way, my brother, Vikas Khanna's
3 brother is a sitting Democratic congressman and a political
4 ally and close friend of Bob. Like, if Bob is crooked, this is
5 a golden opportunity. So what does Bob do? He does literally
6 nothing. He doesn't mention Daibes. He doesn't mention the
7 case. He has an 84-second phone call with Vikas Khanna in
8 which he congratulates him, and he congratulates him again on
9 getting the First Assistant position. I think the brother came
10 up, and then he says: Hey, those two lawyers, those are great
11 guys. You're going to have fun working with those guys.

12 And you heard that those two lawyers -- again,
13 unconnected to any particular case, those two lawyers represent
14 dozens of people who are being prosecuted by that office. So
15 again, this is not evidence of a scheme. It does not support
16 the story. The fact that they referenced Vikas Khanna in the
17 story of bribe fantasy proves to you, I would submit, they
18 don't have it. They don't have it. This is evidence of
19 innocence. Fund-raiser, brother of my political buddy, a young
20 up-and-comer. Not a single word. Not a single word. This is
21 the quality of proof. This is why this case dies right here.

22 The last thing, and again, they're focusing on the
23 minutia because there's nothing else to do. This thing about
24 Bob skipping the investiture, again, it proves the opposite of
25 a bribery scheme. Folks, common sense. If you were on the

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Summation - Mr. Fee

1 take to get somebody to kill the Daibes case, if you had
2 nominated Sellinger for that process, but then he recused
3 himself, what do you do next? Do you call him up while the
4 Daibes case is still pending and while his No. 2, like, his
5 right-hand man, Vikas Khanna, is still supervising the Daibes
6 case, do you call Phil Sellinger up and basically tell him:
7 Man, we're done. You didn't deliver. I'm not going to your
8 investiture?

9 Of course not. Of course you wouldn't do that.
10 Daibes's case is still pending. Phil Sellinger is in the
11 office every day with Vikas Khanna. Even if he's not
12 supervising the case, you wouldn't want to do that. That's a
13 dumb thing to do. If your next target, as they say, was Vikas
14 Khanna, you're going to tell his boss that, hey, man, we're
15 done, I'm not coming to your investiture? Does that help you
16 achieve the goals of the scheme that they need to prove with
17 evidence beyond a reasonable doubt? It does not. It obviously
18 does not. The reason he said that to Phil about, you know, I
19 don't really have the ability to influence anything you do is,
20 we proved to you, remember the White House memo, diverse
21 candidates, Bob nominates Esther Suarez. She would have been
22 the first Latina to have ever held that position. It doesn't
23 work out.

24 You heard Sellinger discuss diversity with Bob. I
25 would submit to you, you also saw -- I don't have to submit to

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Summation - Mr. Fee

1 you, you saw that Bob was getting pressure from the Black
2 ministers in Newark and Jersey City to compose a federal
3 prosecutor's office that represented the communities that were
4 under its jurisdiction. This is in evidence. Sellinger didn't
5 do that. He didn't appoint this guy Jamal Semper who you heard
6 is now a federal judge, universally loved and respected. Bob
7 said: Hey, promote this guy. I think that would help address
8 this diversity concern that I care about and that the White
9 House cares about and that's important to the communities that
10 we serve. These are my constituents, for Bob, also Phil
11 Sellinger, people he's serving in New Jersey. Didn't happen.
12 Didn't happen. That's the source of Bob going to Sellinger and
13 saying, I don't really trust your word anymore or I'm not
14 coming to your investiture. Of course he wasn't going to do
15 that in the midst of the bribery scheme while Daibes's case was
16 still pending. It would not make sense. It does not make
17 sense. We have again proven to you, disproved the government's
18 theory with this sort of evidence.

19 OK. I'm going to briefly talk about the obstruction
20 count, because I do think -- I genuinely think the case --

21 MR. MONTELEONI: Objection.

22 THE COURT: Again, the evidence shows.

23 MR. FEE: Thank you, your Honor.

24 I genuinely believe that the evidence shows that there
25 is --

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Summation - Mr. Fee

1 MR. MONTELEONI: Objection.

2 MR. FEE: Judge --

3 THE COURT: Mr. Fee, don't. I understand. Don't put
4 yourself up.

5 MR. FEE: Got it.

6 THE COURT: The evidence is what matters here or the
7 lack of evidence --

8 MR. FEE: Thank you. I'm sorry.

9 THE COURT: -- evidence or lack of evidence is what
10 matters, not what you believe.

11 MR. FEE: What he said.

12 And therefore, you must acquit on these counts.
13 Whatever you think or don't think about that cash and gold, no
14 one is answering the question about cash and gold beyond a
15 reasonable doubt. Let's be real. They're not. They're not.
16 Because it represents the chaos and the years of a life lived
17 in a home. That's hard to unpack. That's why it seems hard to
18 really have certainty about any of it, right? Decades and
19 decades of stuff, gold and cash in bags, in closets, whatever.
20 That's tricky. This is not tricky. The evidence has shown you
21 this is not tricky. Bob did things he should have been doing.
22 Bob did things in the absence of any proof that it was a bribe.
23 Bob did things that were right and good for his constituents
24 and his country, standing behind that 100 percent.

25 This obstruction count, just really quickly, the

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Summation - Mr. Fee

1 evidence you've heard about the obstruction count is this.
2 Bob's prior lawyers went to a meeting with the prosecutors.
3 They were trying to convince the prosecutors not to bring a
4 case. It didn't work out, obviously. It was an advocacy
5 situation -- a defense lawyer making arguments, don't charge my
6 guy. That's what that was. And yes, that lawyer works for
7 Bob, but that lawyer was making arguments to not bring a case.
8 There's no detailed testimony about what was actually said by
9 that lawyer. You heard a paralegal who couldn't remember most
10 of what was said. He just said I got an email with a
11 presentation. The only proof you have on this count is that
12 paralegal, and then it's four pages of, like, an almost 50-page
13 presentation. OK?

14 Now, you know that there was talking. There was
15 talking during the presentation, but you don't know what the
16 talking was. You just have the four pages. So let's look at
17 those four pages.

18 Oh, I'm sorry. Actually, the other evidence, which
19 I'm sure you'll see again, was they say that these checks were
20 part of Bob's obstructive activities, that the checks produced
21 about the loans being repaid, neither Bob nor his lawyers
22 presented those. That is not connected to Bob. Those are
23 Nadine's lawyers. She had her own, separate counsel produce
24 those checks. So any theory that that proves Bob obstructed
25 justice, reject that.

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Summation - Mr. Fee

1 But let's look at the slide they put in, what they say
2 actually proves obstruction here.

3 So, this is one on monthly car payments. This is
4 correct. It's truthful. The little asterisk means the senator
5 didn't know about it before the investigation began. That's
6 what they're saying is a lie.

7 Can we go back, please. Go back to the prior slide.
8 Thank you.

9 That's truthful. There's no evidence -- we talked
10 about it; I won't talk about it again -- that Bob knew Uribe
11 was making those payments. Uribe told you that, the text
12 messages, everything has shown you that. There's just an
13 absence of evidence showing that Bob knew car payments were
14 being made by Uribe. So this is true. This is just rearguing
15 the inference they want you to adopt. So obviously all that
16 other stuff, all the absence of evidence and the evidence we
17 showed to disprove this theory, it just goes together. That's
18 one of the slides they showed you.

19 The next one, I think, we need to spend a little time
20 on, just a little bit of time on. You see that highlighted row
21 on this slide? Again, we don't know what was said during -- I
22 think it was hours of presentation, even though it's written,
23 to the prosecutors. We don't know what Bob said to his lawyer
24 either. There's no evidence of that. Remember that. I don't
25 want to sort of adopt any sort of misimpression. There is no

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Summation - Mr. Fee

1 evidence what Bob did or did not say to his lawyers. The
2 argument is that Bob must have said this to his lawyers. So I
3 want you to understand you don't even know what Bob said to his
4 lawyers.

5 The argument is that, well, he must have said these
6 things to his lawyers. How else would they know? That's
7 fairest version of the government's argument. I would submit
8 that does not meet the burden. That's what I would tell you.
9 I don't think you can convict on obstruction based on that,
10 because these are not Bob's word. Bob wasn't at the meeting.
11 He didn't attend the meeting. There's no proof of what he did
12 or did not say to his lawyers. Anyway, let's just look at it.
13 So if you see that highlighted entry, in summation they didn't
14 show that to you. What they showed you were the next three
15 entries. They're the same -- \$10,000 check from IS EG Halal to
16 SIBC, consulting fee, with an asterisk, which says he wasn't
17 aware. And they say that's a lie. They didn't show you -- the
18 presentation says in the just one prior row that Bob did know
19 about the consulting agreement between SIBC and IS EG Halal.

20 So the takeaway from this, and no one will dispute
21 this, is that the lawyers are saying, yes, Bob knew about the
22 agreement. Bob knew SIBC had been engaged by IS EG Halal. 100
23 percent Bob knew it before the investigation began. The
24 assertion that is being made here is that Bob didn't know about
25 the details of the checks. That is true. Now, they have shown

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Summation - Mr. Fee

1 you again and again that message where Fred says he gave a
2 check to Bob. Folks, there's no other evidence about it.
3 Like, let's say it was the IS EG Halal consulting fee check for
4 Nadine and that Fred did give that to Bob. There's no evidence
5 Bob opened it up, wrote it down, remembered it, knew what it
6 was, knew it was the second of three payments, whatever --
7 whatever. There's just nothing there beyond that, and that's
8 the entirety. I would submit to you that this is a deeply
9 implausible theory of obstruction.

10 First, you say 100 percent I knew about that
11 consulting agreement. I knew about it. That's the
12 representation. I knew about it long ago. And we know he knew
13 about it. He helped her revise, right, on LegalZoom? But then
14 step 2 of the obstruction theory is he said he didn't know
15 about the amounts and dates of the checks that were actually
16 delivered. Right? Because, remember, when you say you knew
17 about the consulting agreement, the consulting agreement
18 detailed the payments. It detailed that she would get \$10,000
19 for at least three months. So Bob in this presentation, even
20 if you accept that this came from Bob, it is saying I knew
21 about that agreement. I knew about the payment schedule. I
22 did. I knew what she was getting, I knew how long. That's
23 what the agreement tells you. The only thing this is saying is
24 I, Bob, didn't actually know about the details, and that is
25 consistent with the evidence.

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Summation - Mr. Fee

1 So let me close with three quick facts, three facts,
2 not quick, that I think are not in serious dispute, and you
3 know very much about them so I won't repeat, and show you you
4 must acquit Bob.

5 The first is that there is no compelling evidence that
6 Bob ever took a bribe. And reject, as I have talked about
7 before, the suggestion that somehow the absence of evidence of
8 Bob taking a bribe to do an official act is actually evidence
9 of guilt. That's not how you, I would suggest, should uphold
10 your oath as jurors.

11 They had all the phones in this case. They had iCloud
12 histories. They had email accounts. They had surveillance.
13 They had GPS. I think the prosecutor even said how much work
14 they did, how hard it was to do all this work. They did a lot
15 of work. They don't have it. They don't have the proof of a
16 bribe. They did all that, all that hard work, that they're
17 proud of, and they cannot point you to anything more than a
18 story that is not supported by the proof. Right? They're
19 misrepresenting what some of the witnesses said. I showed you.
20 I showed you. They're leaving out details that don't help the
21 story. All that work, and they still don't have it. That's
22 what you need to take away.

23 And you know, the lawyerly trick, you will hear again,
24 I'm 100 percent sure, or I presume you will hear it, is that
25 they're going to make excuses for not having that. And the

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Summation - Mr. Fee

1 excuses sound like what you've already heard. It was all
2 implicit. It was wink-wink. They didn't need to say it
3 because everybody knew it, and you know they knew it because
4 they're criminals. It's that kind of circular reasoning. You
5 don't need to hear it again. They say of course they didn't
6 write this stuff down. It's a crime; you don't write stuff
7 down. But when they did write stuff down, that was also proof
8 of a crime. You're going to hear that. And they have all one
9 thing in common -- they are in the imagination of the
10 prosecutors. They're calling them inferences. They want you
11 to adopt them, and I would ask you to do your best to do your
12 duty to look at the evidence when those sorts of explanations
13 are urged on you because they are completely invented.

14 Think about the most valuable thing you can imagine
15 someone getting handed down in a family -- a gold watch, a gold
16 coin collection, a grandfather clock, a scarf, whatever.
17 Imagine. It's not yours. It's stolen. It's not yours. I
18 don't have any written evidence because you're too smart. You
19 concealed a lot. That grandfather clock is a bribe. You're
20 just too smart to write it down. You're too smart to get
21 caught on surveillance video talking about how you stole that
22 grandfather clock. You are a good secret keeper. It's easy to
23 rhetorically flip the lack of evidence into an argument that
24 there is evidence, especially when you sort of wrap it up and,
25 like, these entitled politicians think they're so good that

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Summation - Mr. Fee

1 they can do whatever they want, send these corrupt guys --
2 wherever. They're trying to move you along, over the gaps. It
3 doesn't make sense.

4 The second fact that's not in reasonable dispute and,
5 I would submit, it shows that you need to acquit the senator is
6 that he never even came close to taking an official act to help
7 anyone on the basis of a bribe. You're going to hear all about
8 what an official act is. But what have you heard about Senator
9 Menendez doing that was actually within his authority to help
10 any of the people in this case?

11 Ted McKinney told you Senator Menendez had zero
12 authority of over him. Ted McKinney worked for the secretary
13 of agriculture and the president. I'm not even talking about
14 all the other evidence that shows Bob wasn't trying to
15 accomplish any kind of bribery objective. I'm just talking
16 about official authority. He has none. In fact, Ted
17 McKinney's actions prove that to you. Remember after the phone
18 call Ted McKinney just ignored Bob for a month? No response.
19 They drafted an email, didn't send it. No follow-up, and Bob
20 didn't follow up. Just total silence. That is not somebody
21 who you genuinely are concerned about exercising their
22 authority over, to just ignore them. I would submit your
23 common sense tells you that is not how someone acts if there is
24 real concern about authority being exercised.

25 On Daibes, we listened to Phil Sellinger. What did he

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Summation - Mr. Fee

1 have to say about pressure from Bob, about threats from Bob,
2 about any requests from Bob? Just nothing like that came close
3 to coming out of Phil Sellinger's mouth. It was evidence of
4 innocence from Phil Sellinger. No threats.

5 José Uribe told you he literally had no idea what Bob
6 did or didn't do to help on the Parra case, and there's a good
7 reason. Uribe had no idea whether or not Bob had done anything
8 wrong because all Bob did was have a call and a meeting to
9 raise this concern about a bad case that was, in fact, a bad
10 case. That's the evidence. That's what you've heard. And of
11 course, you heard Attorney General Grewal is a state official.
12 Bob has no authority over him. None.

13 You heard about Qatar. I'm not going to talk more
14 about that. There's no question Bob didn't take an action in
15 exchange for a bribe.

16 The third fact about which there is no reasonable
17 dispute that shows you must acquit Bob is that there's no
18 evidence that Senator Menendez was aware -- reliable evidence
19 that he was aware of Nadine getting help with her mortgage or
20 car payments from anyone else. This is very important. The
21 evidence has been crystal clear that he did not have any
22 knowledge of those payments and that Nadine wanted it that way.
23 And the reason she wanted that, you also know, she had lost Bob
24 once because of the chaos and drama of her life, and she was
25 trying hard, understandably, to present the image that would

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Summation - Mr. Fee

1 keep Bob with her. Right? This was, like, the chance for
2 Nadine to get back to a comfortable life, to get away from some
3 of the chaos and the hard times. And of course, she was
4 presenting an image to him, as human beings do in
5 relationships, that was a little rosier. Right? This is the
6 whole point of the Instagram -- it's a little bit better than
7 reality. Right?

8 That's what she was doing, and you have evidence that
9 she was doing it. 100 percent. Look at the timeline. Slide
10 120.

11 This is the relationship. It's in evidence. It's
12 when they begin dating, when they break up. You see the car
13 payments from Uribe began in April 2019 to July 2019, when
14 still dating, not living together. No bank accounts joined, no
15 credit cards joined. Nothing. He's not even living with her
16 when those payments begin. And then you see the engagement,
17 then he moves in and then they get married. And again, this is
18 not shifting blame to anyone. This is the truthful evidence
19 about what Bob knew and did not know, which we are required to
20 present and, frankly, should, in our system, be welcome to
21 present to get you to the truth of what these allegations
22 actually show.

23 Let's go to the next slide, please.

24 This is one example. This is the elliptical you've
25 heard so much about. You have not seen this focused on in the

07aWmen3

Summation - Mr. Fee

1 prosecutor's summation, no surprise. Nadine tells Bob this
2 elliptical that you've seen many times now in her bedroom, she
3 says: I sent the picture of yours, meaning she's going to get
4 it for him, to the guy that orders elliptical to look it up. I
5 am going to go to the office tomorrow and order it. I will
6 confirm before placing the order with you, meaning I will
7 confirm with you before I actually buy it. There's no
8 ambiguity there. She tells Bob she's going to buy the
9 elliptical. That's not what happens. It's part and parcel of
10 the other stuff you've seen.

11 She doesn't want Bob to know there's financial
12 complications in her life. 100 percent, you can rely on that
13 proof. This is what she actually does. This is actually one
14 of Daibes saying: Nadine wants an elliptical. It's in the
15 cart. It needs to be ordered and shipped ASAP.

16 Nadine's not on this email, and Bob certainly is not
17 on this email. And Bob is never told she had somebody else
18 order it for her.

19 OK. So, we're going to do it before lunch.

20 The prosecutors are going to continue to tell you, in
21 excited tones, that Senator Menendez is a crook, is corrupt,
22 took a bunch of bribes, all that stuff. It's going to keep
23 happening. I hope and I think the evidence has shown you a
24 more accurate picture. I don't think you've seen anything to
25 suggest that he's a man who cares about ellipticals and

07aWmen3

Summation - Mr. Fee

1 Mercedeses and all that. You heard his sister tell you he
2 could have left the Senate and made a whole bunch of money. He
3 didn't. This is what he's done, as you heard, day after day
4 for most of his life. He's served the public. He's tried to
5 do the best he could for his constituents. He cares about
6 things like diversity and human rights and the United States
7 security in the world and whether folks in diaspora communities
8 in New Jersey are getting the attention they deserve in this
9 country, because he himself got a lot in this country.

10 Even Sarah Arkin, the government's own witness, told
11 you that, to this day, Senator Menendez and his staff try to
12 take a meeting with every constituent who needs one. That's
13 what he's about. That's what he's always been about. This is
14 not a case where the prosecutors have met their burden. It's
15 just not here. It's a painfully thin case. Most of the
16 evidence was in summary charts presented by agents who had not
17 interviewed a witness or knew anything about the evidence that
18 you now know about in this case.

19 You will hear theories again from the prosecutors in
20 their next summation, and they are misdirections. They are
21 theories based on inferences divorced from the evidence, and we
22 have shown you that. We don't have the obligation to do so,
23 but we have. We have disproven these allegations. There's not
24 been one witness who told you they bribed Senator Menendez.
25 There's not been one witness who witnessed Senator Menendez

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Summation - Mr. Fee

1 agreeing to do anything that was other than the right thing to
2 do. It just hasn't happened.

3 You know, the Supreme Court has said, and this will be
4 reflected in the instructions you hear, that the purpose of a
5 jury is to guard against the exercise of arbitrary power, to
6 make available the commonsense judgment of the community as a
7 hedge against the overzealous or mistaken prosecutor -- the
8 overzealous or mistaken prosecutor.

9 Now, listen. We talked about evidence here. You've
10 got to go back to that room and you have to uphold your oath.
11 You're the only thing that matters now. And I want you, I urge
12 you to think about that principle when you do your job. It's
13 critical to understand the lens through which you must view
14 this case. This entire prosecution, I think, has been a
15 reflection of how critical, how important it is to have a jury.
16 This is how the system works. The fact that he is charged,
17 that he is sitting here does not mean that you need to accept
18 this sort of story, half-baked, twisted up, shifting, jumbled,
19 whatever that is, and you will hear more of it. Resist the
20 temptation to pick the salacious story about a corrupt
21 politician, because it's not there. It's not there.

22 This is an important case for Senator Menendez. It's
23 also an important case for these prosecutors, and I think
24 that's been reflected in the stories you've seen and the way
25 they treated the evidence. That's my view.

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1 Our system, the American criminal justice system, is
2 designed to reject cases like this one. It's designed when
3 prosecutors bring charges but do not have evidence beyond a
4 reasonable doubt for the defendants to get acquitted. I would
5 submit, I would argue you are here for a reason, and the reason
6 is to hold the government to its proof.

7 What you are doing here is a service to your country.
8 It is patriotic to serve on a jury. I don't know if you've
9 served in the military. I don't know if you volunteer. I
10 don't know if you ever have or will work for the U.S.
11 government. But this patriotic, and when you acquit Senator
12 Menendez, the United States wins. The United States of America
13 wins when thin cases brought by overzealous prosecutors are
14 rejected because the evidence isn't there. That will be a win
15 for this country. So we leave his fate in your hands and leave
16 it for you to decide.

17 Thank you.

18 THE COURT: All right. Thank you, Mr. Fee.

19 Ladies and gentlemen, before we go to lunch, I wanted
20 to explain a little bit of what you saw. There was some byplay
21 back and forth between the lawyers, and it dealt with what's
22 called vouching. I just want to explain it so you understand
23 what's happening.

24 A lawyer is not permitted to put his or her own
25 credibility at issue. A lawyer can say I believe the evidence

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1 showed this or I believe the evidence can show that. But a
2 lawyer cannot say I believe so-and-so is telling the truth or I
3 believe so-and-so is not telling the truth, because that's
4 putting the personal credibility of that lawyer at issue. And
5 that's not anything for you.

6 What's for you is the lawyers' arguments. You listen
7 to the arguments as to what the evidence showed or didn't show.
8 But the lawyer is not permitted to say trust me, believe me,
9 this is what I think. I think so-and-so is telling the truth.
10 They can't do that. It's called vouching.

11 Is that clear? But they can say, and should say, I
12 believe the evidence shows this and I believe the evidence
13 shows that, and you will find at the very end the evidence
14 shows this, you should find the evidence shows that. You just
15 can't put your credibility at issue.

16 Enjoy the lunch. We'll see you at five after two.

17 (Jury not present).

18 THE COURT: Five after two. Thank you.

19 (Luncheon recess)

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Summation - Mr. Lustberg

1 AFTERNOON SESSION

2 2:05 p.m.

3 (In open court; jury not present)

4 THE COURT: Mr. Lustberg, do I have an estimate from
5 you, sir?6 MR. LUSTBERG: Your Honor, I said yesterday
7 two-and-a-half hours. I think I may be a little less than
8 that, but that ballpark.

9 THE COURT: Fine. Bring the jury in.

10 (Jury present)

11 THE COURT: Ladies and gentlemen of the jury, we now
12 will hear the summation by Mr. Lustberg on behalf of Mr. Hana.

13 MR. LUSTBERG: Thank you very much, your Honor.

14 Quid pro quo. That's what this entire case is about.
15 This in exchange for that. Without a quid pro quo, Mr. Hana
16 can't be convicted.17 But the exact phrase quid pro quo is really important.
18 It's not just about quids, it's not just about the quos, it
19 also has to be the pro. That connects the two. Put in plain
20 English, as opposed to Latin, it's not about the this or that.
21 It's not about or that. It is about this for that. This in
22 exchange for that.23 This requirement is necessary, not only just to
24 conform to the bribery statute, but also to implement the
25 requirement that you're going to hear Judge Stein talk about,

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Summation - Mr. Lustberg

1 that the bribery statute requires corrupt intent. That is, in
2 order to convict Mr. Hana, or any of the defendants of bribery,
3 there had to be corrupt intent, which means the intent to act
4 with an improper motive or purpose.

5 And that improper motive or purpose can come about
6 only if a thing of value was provided in exchange for an
7 official act. Without that, there is no improper motive or
8 purpose which is what the law requires.

9 In listening to the government's summation, that quid
10 pro quo, that this for that, that exchange, often seemed to get
11 lost. But it's largely what I want to talk to you about for
12 the next little while.

13 In his summation, Mr. Monteleoni spoke a whole lot
14 about the quids, the things of value that were given by
15 Mr. Hana. With regard to him, those quids were, and I'll list
16 them all because they're really not disputed. There was a
17 payment of Nadine's mortgage, approximately \$23,000, we'll talk
18 about that as a loan. He gave her a job, paid her \$30,000. He
19 paid for dinner at Mr. Chow's restaurant, that was one of the
20 things that Mr. Monteleoni talked about. That was about \$524.
21 You have the receipt in evidence. There were seven 1-ounce
22 gold bars that were worth \$12,878.50. And there was an air
23 purifier and there was an elliptical. There were other
24 unspecified things of value like carpeting maybe some odd jobs
25 that were done around Nadine's house. Mr. Monteleoni talked

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Summation - Mr. Lustberg

1 about all of those. I'm going to address the specifics of most
2 of them a little later in this summation.

3 But, really, whether Will Hana provided those things
4 to Nadine is honestly not disputed. I would be insulting if I
5 stood here and said he didn't give those things. Those things
6 happened.

7 Likewise, really with regard to the quos, Mr. Hana
8 does not deny that whether or not there were official acts, as
9 Judge Stein will define them for you, Senator Menendez did do
10 things on Will's behalf or took steps that Will advocated for.
11 Will doesn't deny it. It's really not deniable that the
12 senator called Undersecretary of Agriculture Ted McKinney.
13 You've heard about that quit a bit. He didn't deny that
14 Senator Menendez took steps for which he, Will, advocated
15 regarding issues affecting his native land of Egypt, or that
16 Senator Menendez provided information to Will bearing on the
17 U.S. Egyptian relationship. He doesn't deny that the senator
18 included him in meetings and dinners with Egyptian officials.
19 These are things as well that Mr. Monteleoni discussed at great
20 length.

21 But, Mr. Monteleoni, as passionate and detailed as he
22 was in describing those quids and those potential quos, if
23 they're official acts, largely ignored the pro. The pro
24 element of quid pro quo. Again, it's not enough if there are
25 things of value provided and there are actions taken. One must

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Summation - Mr. Lustberg

1 be in exchange for the other. There must be a quid pro quo.
2 Without that, there is no corrupt intent. And with regard to
3 that, most respectfully, the government has it wrong. It has
4 just not proven its case.

5 So let's talk first, before I get into some of the
6 specifics about how the government got it wrong, I'm going to
7 argue to you that the government got it wrong for four reasons.

8 The first, and you know this very well, the
9 government's argument that there was a quid, that the quid was
10 in exchange for a quo, depends almost entirely upon its
11 timeline. Mr. Monteleoni spent a lot of time during the trial
12 and again in his summation reviewing Exhibits 1302, 1303, and
13 I'm not going to really speak about 1304, I'm sure Mr. De
14 Castro will. It's summary charts that seek through timing to
15 link events one to the other. More specifically, to link quids
16 to quos. That's what the purpose of that was.

17 You heard when Mr. Monteleoni was doing his
18 examination of whichever witness was testifying about them,
19 people who really had not investigated the case, he would say
20 didn't this happen within a half hour or didn't this happen the
21 next day. The government's case is really based upon those
22 charts and about the closeness in time of various things.

23 As just one example, Mr. Monteleoni says a quid pro
24 quo is established with respect to Senator Menendez's call to
25 Undersecretary McKinney on May 23, '19, because several days

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Summation - Mr. Lustberg

1 later, on May 28, 2019 -- you'll have all these exhibits --
2 Will sent an e-mail listing Nadine as an employee of IS EG
3 Halal at a salary of \$120,000. That's an exhibit that
4 Mr. Monteleoni showed you a couple of times on Monday, maybe
5 Tuesday.

6 Leaving aside that salary, and I'll talk about that
7 just a little later, the government's effort to show a quid pro
8 quo based upon the coincidence of timing fails for several
9 reasons. One is that, often, the government just gets it
10 wrong.

11 With respect to Nadine's job, for example, while it is
12 true that she was listed on an IS EG document dated May 28, the
13 truth is that she's promised that job with the new halal
14 certification entity as early as March 26. So there you see
15 line 520 of Government Exhibit 1302 that talks about getting
16 her getting \$2500 a week and health benefits and that happens
17 on March 26, 2019. Why do I point that out to you? I point
18 that out to you because what the government said was they tried
19 to draw this connection between something that happened on
20 May 23 and something that happened on May 28 and said look how
21 close it was.

22 It wasn't close in time. In fact, that happened
23 several months earlier.

24 In a similar vein, the government began its opening --
25 actually, its summation, rather, by telling you that the head

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Summation - Mr. Lustberg

1 of Egyptian intelligence Abbas Kamel came to meet with U.S.
2 senators in 2021, and the day before the meeting, Senator
3 Menendez met with him at a hotel for a special meeting that the
4 senator's staff didn't know about. Shortly after that, Senator
5 Menendez sent the Egyptian government an article through Nadine
6 related to somebody named Jamel Khashoggi, and the argument
7 they made is this was meant to help the government to prepare
8 their answers to U.S. senators. And then Mr. Monteleoni said
9 this to try to make this part of a quid pro quo.

10 By the way, he says, remember those small Asahi
11 1-ounce bars of gold from Mr. Hana, some of which found their
12 way to Menendez's house? Hana bought them the day after this
13 meeting with the senators, trying to link those two things by
14 time. By placing those two events next to each other in time,
15 June 22 and June 23, you can see it there, the government asked
16 you to infer that Mr. Hana gave mini gold bars to Nadine as a
17 bribe in exchange for these meetings and for providing this
18 information.

19 When you look at the chart, you will see that they
20 have this all wrong and that Will had absolutely nothing to do
21 with any of this. In fact, you have to go back six months to
22 find any communication whatsoever from Will in this chart. So
23 we are in June, and is nothing leading up to this exchange to
24 these gold bars that links him to any kind of wrongdoing
25 whatsoever.

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Summation - Mr. Lustberg

1 Back in January '21 there is some discussion of
2 helping to send Nadine an elliptical machine. But there is
3 no -- and then there is no communications after June of 2021 to
4 again goes tie these things together.

5 So, I am going to ask you, when you go back in the
6 jury room, really look carefully at these time lines. Really
7 think hard. Are these coincidences of timing? The
8 government's whole issue is coincidences of timing. Things
9 that are tied together by timing. Is that really, really what
10 exists.

11 The bottom line is there is no evidence, none, to
12 suggest that these gold bars which Mr. Monteleoni attempted to
13 tie to that meeting was in any way related one to the other,
14 let alone was a bribe payment for them.

15 The government criticizes us, as I said, for
16 suggesting a bunch of coincidences, but really that's what
17 they're doing. So sometimes they get it wrong by just missing
18 when the critical things happened. And again, think about
19 those gold bars for a second. Mr. Hana buys the gold bars on
20 June 23. The meeting that's at issue happens on June 22, so
21 the government says ah-ha, we got you.

22 But what you know is that there is no evidence to say
23 when those gold bars go to Nadine. And in fact, what you know
24 is that back eventually when they search her house in June, and
25 we'll talk about a little more later they find only two of

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Summation - Mr. Lustberg

1 them. But there is no evidence, and we asked the agents, do
2 you have any idea when those gold bars went to Nadine? And the
3 answer was they had no idea.

4 Anyway, so sometime they just get it wrong.

5 Often, though, they do something else wrong. This is
6 something that we want you, again, to focus on by looking at
7 all the exhibits, not just theirs. The government often
8 concludes that the quid is an exchange for the quo, based upon
9 a timeline that actually omits critical facts from those
10 timelines. So that's why we provided Defendant's Exhibit 1302
11 and 1303, and Hana Exhibit 1300, which I'll talk about a little
12 bit later to fill in those critical gaps.

13 The government criticizes our efforts to interlineate
14 them, to put the yellow lines in between the white and blue
15 lines as a distraction. They really are critical and you can't
16 deny that.

17 Let me give you just a couple of examples. In
18 Government Exhibit 1302, lines 56 to 58, the government
19 describes the way in which Nadine gets Senator Menendez to
20 invite Will and General Shawky to a meeting, drafting
21 handwritten notes -- you remember the handwritten notes
22 inviting General Shawky and Will to this meeting, and suggests
23 there is something wrong with that and that it's part of some
24 kind of bribery scheme.

25 But if you look at lines 30-1, these are the ones we

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Summation - Mr. Lustberg

1 added, and 30-2 from February 8, 2018, which we added, you can
2 see that the government didn't tell you in its chronology that
3 four weeks earlier, General Shawky had reached out to Dana
4 Stroul, who is Senate Foreign Relations Committee staff, and
5 she immediately agreed to meet with him.

6 This puts this whole event in a different context and
7 makes it seem so much less sinister and nefarious, so much less
8 a part of the bribery scheme alleged. This is no mere
9 distraction. This is telling the whole story with what
10 happened with those meetings.

11 Likewise, let me give you a couple of examples. Just
12 a couple, I won't go through many of these from Defense
13 Exhibit 1303. That was our effort to add additional lines to
14 Government Exhibit 1303. That's the timeline regarding the
15 Uribe-Parra deal. And it's our view that these lines serve to
16 overstate Will's involvement in the matter all together.

17 So, what Will Hana did was really just about getting a
18 lawyer. So the government includes line 22 of Government
19 Exhibit 1303, which is a text which you've seen alluded to
20 today, you heard a lot about it during the trial, from Uribe to
21 Will that says the deal is to kill and stop all investigation.
22 I'm talking to Andy and he is falling asleep.

23 But if you see what they left out, you see message
24 after message -- I'm not going to go through all of these, this
25 is Defendant's Exhibit 1303, page 6. Sorry. In which Will is

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Summation - Mr. Lustberg

1 attempting to help in the most legitimate possible way, which
2 is by helping Parra to get a new lawyer.

3 Mr. Fee talked to you a little bit about that and I'll
4 talk to you a little more about it later.

5 Later, on 1303 -- you can take that down. The
6 government seeks to make it seem as if Will Hana is involved in
7 a scheme long after he's cut out of it.

8 So, they in their chart have in line 1027, which is on
9 September 5, 2019, way after Parra's been sentenced, they put
10 in a text from Will to Nadine asking him to call her,
11 insinuating he was somehow involved in part two of the plan.
12 But that's all it is. There is one line saying call me.

13 But here's what they ignore. They ignore line 1027-1,
14 where Nadine texts that same day and says I can't talk. And
15 perhaps more importantly, a couple lines later, lines 1067-2
16 and 1067-3 -- when there's the dashes it means stuff we
17 added -- from September 9, 2019, where it becomes clear Will
18 was trying to get together, not to participate in some new
19 illegality of Uribe's, but to celebrate Egyptian Armed Forces
20 Day.

21 This is a repeated pattern when you look at the
22 chronologies that is such a critical part of the government's
23 case. It is such a critical part of how they attempt to
24 establish quid, establish a quo, and tie them together. You
25 will see that there are critical facts missing that we've tried

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Summation - Mr. Lustberg

1 to provide to you.

2 The government yesterday in no uncertain terms asked
3 you to ignore those, saying they will distract you from
4 appreciating their evidence. But without these
5 interlineations, as we've seen, an inaccurate and an incomplete
6 story will be told. And that would be tragic. Because, after
7 all, that may be what the government wants, but it is not what
8 the law requires. And your oaths as jurors, which you took at
9 the beginning of the case to well and truly try this case,
10 demands that you look at all the evidence. In deliberating
11 this case, that's all we ask, is that you look at all the
12 evidence. Theirs and ours. The charts and the
13 interlineations. And when you do, you'll have a different view
14 of whether the quids are tried to the quos. The government's
15 don't because they omit critical information. That's the first
16 problem with their approach, is that it omits critical
17 information or just gets the chronology wrong. Their emphasis
18 is on the timeline. We want you to take those timelines and
19 look at them carefully.

20 Second, here is the second problem with their
21 approach. The government's effort also fails, it requires you
22 not just to engage in proper inference, Judge Stein will tell
23 you, you can engage in proper inference. But improper
24 guesswork or speculation, which he'll tell you, you can't do.
25 Indeed, I'm sure you heard many times the judge tell witnesses,

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Summation - Mr. Lustberg

1 don't speculate.

2 But here, the government attempts to tie quids to the
3 quos, and to establish corrupt intent over and over and over by
4 inviting you not to draw inferences from the evidence, but to
5 speculate.

6 So what is said, let me give you a great example of
7 that. There is all these dinners. We're going to talk about
8 them some more. And all these dinners, we know that those
9 dinners took place. There is pictures of them. There's
10 entries about them.

11 What we heard about, what did people say at those
12 dinners, what was actually said. We have no idea. And the
13 only way you can know is by speculating, other than maybe some
14 of the dinners that were attended by Jose Uribe which he says
15 were pointless.

16 And that's true even in the one case in which we do
17 know something that was said, the May 21, 2019, dinner that
18 Will attended at Morton's Steakhouse in Washington, D.C. with
19 Nadine, Senator Menendez, and Ahmed Helmy, the counselor from
20 the Egyptian embassy.

21 That dinner, you will remember you heard a lot
22 about -- Mr. Fee talked about it a little bit earlier -- was
23 the subject of surveillance inside the restaurant, and outside
24 the restaurant. And you heard a lot about that surveillance.
25 And what did you hear? You heard that the parties ate, and

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Summation - Mr. Lustberg

1 drank a good deal of wine, and eventually smoked cigars. You
2 heard that they laughed, and had a good time. And at some
3 point, as you can see here, they even left -- it's not
4 surprising after the dinner they would leave. And even smiled
5 as they left. I guess that for sure shows a crime had been
6 committed.

7 But what was really criminal about this? Well, the
8 surveillance inside the restaurant was Agents Ragland and
9 Williams-Thompson who were masquerading as a married couple.
10 Didn't hear much of anything else, though Agent
11 Williams-Thompson did hear she heard Nadine say at some point
12 what else can the love of my life do for you. I know you heard
13 this a million times.

14 But when she was questioned, she had no idea what this
15 was a response to. It was what else can the love of my life do
16 for you, and she didn't know what had come before, so she
17 didn't know what the "else" was. It could have been a response
18 to pouring some wine. It could have been a response to passing
19 the salt. Who knew. The predicate for "else" was not
20 provided.

21 And so, the only way you can make this criminal is by
22 speculating. That's the point. It's really the very
23 definition of inappropriate speculation, and that is not
24 allowed.

25 It's also, by the way, taking innocent actions, having

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Summation - Mr. Lustberg

1 a dinner, and making them appear somehow sinister and criminal.

2 That's not the only speculation upon which the
3 government relies. Take again the seven 1-ounce gold bars that
4 Will bought on June 23, 2021. Just to remind you, the receipt
5 that was put in evidence showed he bought 22. The evidence
6 showed he still had 10 in his own inventory. The government's
7 evidence was that seven at some point were in Nadine's
8 position. Meaning that, just my arithmetic, that leaves five.
9 Those five were who knows what happened to them. They could
10 have been gifts, as Vasken Khorozian thought they might.
11 Because he said Will bought a lot of gifts for friends, family
12 and co-workers. And he also said, you remember, that gold is
13 the kind of thing in this culture that's provided.

14 And in fact Mr. Monteleoni yesterday candidly told you
15 that some people, quote, some people might give those small
16 1-ounce gold bars as gifts.

17 To the extent then that it is unclear that the
18 government says -- the government says they were a bribe, and
19 it's not clear that the government says that they are a bribe.
20 They can't say when, to whom, or for what. Indeed, they can't
21 even say when Nadine got them between June 23, 2021, when Will
22 bought them, and June 16, 2022, when the FBI seized two of
23 them. They can only speculate, for example, that they were not
24 a gift. And speculation is one of the big problems with the
25 government's case.

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Summation - Mr. Lustberg

1 And again, you heard about fingerprints on Monday and
2 again yesterday, even though there was no forensic evidence of
3 Will Hana having fingerprints on anything. Mr. Monteleoni said
4 that. And you heard some of the cross-examination of I think
5 it was Agent Glass and Agent Rafferty about the fact that none
6 of Will's fingerprints were on anything. But Mr. Monteleoni
7 argued that some of that cash might be attributable to Will,
8 because it had the fingerprints of two people, Nader Moussa and
9 Gus Lita, neither of whom was called as a witness, who were,
10 quote unquote, close to Hana.

11 But the notion that this proves that Will Hana had
12 anything to do with any of that cash is true rank horrible
13 speculation, not based on evidence or rationality, only on the
14 thin reed of what the government hoped to, but did not prove.

15 In fact, there is no evidence, none, that Mr. Hana
16 ever provided any cash to Nadine.

17 So third, so I talked about how there were flaws in
18 the timeline. I talked about the extent to which the
19 government improperly relies on speculation. The government's
20 argument, and I said this to you in opening, asks of you that
21 you always, always, assume the worst in deciding whether the
22 elements of the offenses have been proven beyond a reasonable
23 doubt. And especially the question of whether the pro in the
24 quid pro quo, the corrupt intent, has been shown.

25 That is, as we discussed during my opening and as you

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Summation - Mr. Lustberg

1 saw through this case, the government consistently asks you
2 over and over and over that you take innocent actions, which
3 the prosecutors are here spinning into something sinister, in
4 an effort to make up for the lack of real evidence, and to
5 convince you it all amounts to a crime. There isn't.

6 Sometimes they do this very explicitly. Sometimes
7 it's so. So they argue because something is unusual, or weird,
8 that it must be criminal. We heard Mr. Monteleoni say that
9 several times during his summation when he talked about a
10 senate staffer saying all of this Egypt stuff is very weird.
11 Weird is not criminal. But that's not it. As Mr. Monteleoni
12 would say, there is so much more.

13 As I mentioned, you've seen a ton of evidence of
14 friends or friends of friends being introduced to each other,
15 having dinner together. And the government sought to prove,
16 and did prove actually, not only that these people had dinner,
17 but before dinner, they would text each other and make
18 arrangements to have the dinners. They would schedule them.

19 And so, as a result, you saw picture after picture of
20 where they had dinner. It was -- there you go. A virtual tour
21 of Northern New Jersey restaurants. We have not only the
22 Glenpointe Marriott -- there it is. Morton's Steakhouse, The
23 River Palm, Segovia, Villa Amalfi, Il Villaggio. You heard
24 about all of these. And you also saw selfies that the people
25 took at each of these restaurants, memorializing their good

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1 times together.

2 This, the government says, is evidence of a crime.

3 But, these dinners are not evidence of crimes. And the
4 government's effort is to take them and in some sense,
5 inferring guilt by association, to take these innocent facts
6 and making them seem wrong or sinister.

7 When one person gives something to another, the
8 government's theory then depends upon you assuming in the same
9 way as you assume these dinners are somehow criminal, and these
10 hotels or restaurants are somehow scenes of crimes.

11 The government's theory depends upon you assuming that
12 what is being given is a bribe and not a gift. So an air
13 purifier, an exercise machine, and even 1-ounce gold bars which
14 we know, as I've said, are given as gifts in the Egyptian
15 Armenian cultures, are made to be something bad, not good.

16 So generosity which pervades the long friendship
17 between Nadine and Will becomes evil. At the very least, that
18 generosity, that relationship is ignored, which is why we had
19 to provide Hana Exhibit 1300 to you, another summary chart, but
20 much shorter one, only 14 pages, but this time one that shows
21 Will and Nadine's friendship. Their gifts, their holiday
22 greetings, their birthday greetings. They are taking care of
23 each other when they're sick, they are spending time together.
24 We only have a slice of the time because, as Mr. Gannaway
25 testified, the records only went back to 2016. But even during

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1 that time, what you can see is the closeness of their
2 relationship, and more specific to my point, their generosity
3 towards one another.

4 I really would ask you to consider that chart as well
5 as the government's charts in assessing whether the government
6 has shown that the quids really were in exchange for something
7 as opposed to just acts of kindness and friendship. And that
8 in some ways is what the deliberation you're going to have will
9 be about. Were these bribes or were they gifts, were they
10 something criminal, or were they something generous.

11 Don't, as the government asks you to do over and over
12 and over, just assume the worst. Don't think that there is a
13 conspiratorial relationship because a person calls Senator
14 Menendez "Bob" as one person did but calls another senator
15 "Senator." Don't think a witness should not be believed -- and
16 this was a highlight for us, because he mistakenly put on his
17 chart s0000 as opposed to soooo. That's part of
18 Mr. Monteleoni's cross-examination of our expert. Take it
19 down.

20 Don't assume one is trying to hide something, being
21 secretive, when she refers to someone she just recently met as
22 the lady with the scarf. Mr. Fee talked about that. Or when
23 Will just forwards along a message referring to Senator
24 Menendez as our friend. That's not necessarily secrecy.
25 That's not necessarily talking in code. It's just people

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1 talking.

2 So really, at every step of the way, the government
3 asks you to assume the worst.

4 Why do they do this? They do this because, lacking
5 direct evidence, they have to ask you to infer facts from what
6 they have. Of course, there is nothing wrong with that. It's
7 often the case that circumstantial rather than direct evidence
8 is used to prove elements. We agree with that. But here it's
9 not only that it's their whole case, it's that their inferences
10 they seek to draw always, always, always go in the same
11 direction. All pointing to badness, rather than goodness. All
12 assuming the worst. And yes, they are assumptions, not
13 inferences based on reason or logic.

14 Let me give you an example derived from a fact that's
15 truly critical to the government's case.

16 And just to sort of talk through the way this happens.
17 The call from Senator Menendez to Undersecretary McKinney. I'm
18 going to talk about that in a little bit more detail in a
19 minute. Just for now think about this. There are several
20 possible answers to why Senator Menendez called Undersecretary
21 McKinney.

22 The government's assumption, their explanation, is
23 that he did it because he and Nadine had received things of
24 value from Will. But isn't it also possible that he just did
25 it because Will was a friend? Isn't it possible that he was

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1 just doing it because Will was a constituent? We know that
2 senators serve their constituents. The government simply
3 excludes those possibilities.

4 But, and this is important. Judge Stein is going to
5 instruct you, you should not exclude those possibilities. In
6 fact, he'll specifically instruct you in the context of gift
7 giving that not every gift or thing of value given to a public
8 official amounts to a bribe. Under the law, giving a gift or
9 thing of value to a public official to build goodwill, even in
10 hopes of ultimately affecting one or more unspecified official
11 acts, now or in the future, is not federal bribery.

12 For bribery there must be a quid pro quo. Yup, I'm
13 back to quid pro quo, which is where I began today.

14 And I ask you to remember that as you decide whether
15 every essential element of these offenses before is you proven,
16 that you remember that not every action is criminal. Not every
17 gift is a bribe. Not everything that somebody does is bad.
18 Not every fact is evil. That's what the government wants you
19 to believe, and I want you to think about this in a much more
20 holistic way.

21 One last thing about the government's proofs in
22 general. This is the fourth thing. In thinking about what
23 they've proven here, just use your common sense. Think to
24 yourself whether it makes sense that Senator Menendez would
25 take steps to preserve what the government calls a lucrative

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1 monopoly contract or change his entire approach to foreign
2 policy with as critical an ally as Egypt for an air purifier.
3 Would he do it for an elliptical? For carpeting? Would he do
4 it for a dinner at Mr. Chows? Or even for \$12,000 in gold
5 bars. It just doesn't make sense.

6 And as we'll discuss further, the mortgage and the job
7 in a few minutes, it's just not proportional. So for that
8 reason, too, for the fact -- so there's problems with the
9 timeline, there's speculation, there is always thinking the
10 worst, and there is proportionality.

11 Think of all of those things, each of them, as you
12 evaluate this evidence and think to yourself does it really,
13 really make sense.

14 At the end of the day, it undermines the notion of a
15 quid pro quo. It completely eviscerates the idea of criminal
16 intent.

17 So, let's turn to the schemes in which Will Hana is
18 alleged to be involved. As you heard, he's not charged with
19 certain of the allegations against others, although the
20 government does try to tie them together. But, particularly
21 some of the issues with regard to Mr. Daibes that Mr. De Castro
22 will talk about, the government tries to say, well, they knew
23 each other and they invested together, so they must have been
24 in it together. And Mr. De Castro I'm sure will deal with
25 that.

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Summation - Mr. Lustberg

1 But, as we think about this, as you think about this
2 evidence, and this is super important, you are going to be
3 instructed that you have to think about each defendant
4 individually and each count individually, evaluate them
5 separately. We're not lumping everybody together, which is
6 sort of what the government did in its summation.

7 In any event, Mr. Hana is charged in three schemes.
8 One to gain and then preserve his sole source -- the government
9 always calls that a monopoly -- contract with Egypt. One to
10 benefit his native country by attempting to influence U.S.
11 policy in its favor. And one to get favorable treatment from
12 the New Jersey Attorney General for Elvis Parra.

13 I'll address each of these now. Before I do, I would
14 like to briefly focus you on a question you should consider
15 carefully as you deliberate this case, which is not only
16 whether Mr. Hana committed a crime, but whether he committed
17 the crimes that are actually alleged in this indictment.

18 In particular, I won't belabor this, but you'll get
19 instructions on it. The government charges him and his
20 co-defendants in a single, overarching conspiracy. Big
21 agreement. Not these various schemes that I'm about to
22 discuss. And Judge Stein will I believe instruct you that if
23 you find that the specific single conspiracy charged in the
24 count you are considering did not exist, you cannot find any
25 defendant guilty of that conspiracy.

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Summation - Mr. Lustberg

1 Respectfully, they did not prove, let alone prove
2 beyond a reasonable doubt, such a single conspiracy. And you
3 know that. Because you saw it in the way they presented the
4 case. 1302 was that big chart about Egypt and IS EG Halal.
5 1303, a completely separate chart, had to do with Elvis Parra
6 and the Uribe scheme. And 1304 had to do with Mr. Daibes.

7 You also know by the way Mr. Monteleoni summed up the
8 case, the dividing of these things, one after at other.

9 This was not one overarching conspiracy. It was
10 separate agreements at most. Obviously we say that they're
11 innocent of all of them, and I'm going to talk about Mr. Hana's
12 particular, quote unquote, schemes in a minute. We think they
13 didn't prove any crime at all. But look at that issue as well
14 when you deliberate this case.

15 So, as I said, first set of allegations against
16 Mr. Hana has to do with his having, in the words of the
17 indictment, obtained a lucrative monopoly. The indictment goes
18 on to allege that Senator Menendez intervened to protect the
19 lucrative monopoly. What you see in front of you is a part of
20 the indictment.

21 It's important to recognize what the government
22 actually alleges, and therefore what you as the jury have to
23 pass judgment on when you deliberate. You might be surprised
24 to hear, after listening to the government's presentation in
25 this case, that there is no allegation, not only no facts, but

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1 no allegation, no charge, that Will and IS EG Halal obtained
2 their sole source contract, their monopoly contract, from Egypt
3 as a result of something that Robert Menendez did, let alone as
4 a result of a bribe of any kind. Instead, the allegation is
5 only that Senator Menendez made a single two-to-four-minute
6 call to USDA Undersecretary Ted McKinney in an effort to
7 protect the monopoly, which it was hoped would generate
8 payments to Bob and Nadine.

9 But of course you know, because you heard the
10 evidence, that it would not have made sense that Will would pay
11 a bribe to Senator Menendez through Nadine to either get or
12 keep that contract. And you know why that is. It's because
13 you heard this clearly, it was totally Egypt's call. Not only
14 as to who got the contract, but whether a person or entity,
15 here, IS EG Halal, kept it. The evidence makes this completely
16 clear.

17 Egypt demonstrated, by rejecting one after another
18 after another of the U.S.'s efforts to talk them out of having
19 a halal monopoly at all and giving that monopoly to Will. And
20 they did this, both before and after that contract was awarded
21 on May 1st, 2019. Indeed, it not only occurred during the
22 audit process you heard about in the initial selection process,
23 about what you heard so much from Bret Tate. But also after
24 and at the highest levels of government.

25 So for example, you remember, and this is the timeline

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Summation - Mr. Lustberg

1 of the post-halal contract. On April 1st, 2019, on return
2 travel from the U.S., Bret Tate met Deputy Minister of
3 Agriculture Dr. Mona Mehrez in the Frankfurt Airport and
4 learned that Egypt wanted one halal certifier. He, Mr. Tate,
5 attempted to explain why that would not be in the best
6 interests of Egypt or the United States. But Ms. Mehrez, who
7 you will recall Mr. Tate saw in Washington having lunch with
8 Will and Dr. Kareem, as you'll hear, and she was upset that he
9 interrupted their lunch. But she ignored him. She disagreed.

10 Then, on April 7, Dr. Kareem sent Mr. Hana a Word
11 document giving reasons to reject or suspend certifiers and
12 accept IS EG Halal.

13 On April 11, there is a meeting between Mr. Tate, Ali
14 Abdi, who you might remember was his supervisor at the U.S.
15 embassy in Egypt, and Dr. Kareem, following correspondence from
16 the U.S. expressing concern over delisting all the existing
17 certifiers.

18 But it didn't matter, because shortly after that, on
19 April 23, the U.S. got the word that in fact IS EG Halal had
20 gotten the contract. Again, Egypt disagreed.

21 But although it was decided, it didn't deter the U.S.
22 government from continuing to advocate against IS EG Halal.
23 So, on April 28, this is actually not on this one, the U.S.
24 chargé d'affaires Thomas Goldberger sent a letter to the
25 Ministry of Agriculture in Egypt expressing U.S. concerns about

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Summation - Mr. Lustberg

1 this change. Again, it was to no avail.

2 Egypt did not change its position that it wanted a
3 single certifier, and that single certifier would be IS EG
4 Halal.

5 And then on May 1st, 2019, the contract is entered
6 into. And later, that same day, Undersecretary McKinney places
7 a call to the Egyptian ambassador in the U.S. expressing
8 concerns and requesting Egypt to permit the other certifiers to
9 continue. Much to Undersecretary McKinney's chagrin, as you'll
10 recall, he was quite insulted he received no response.

11 10 days later, Mr. McKinney raised these concerns by
12 letter with Deputy Minister Mona Mehrez. She also ignored him.

13 Finally, you'll remember even after IS EG Halal had
14 the contract and was up and running, Ali Abdi from the foreign
15 agriculture services at the Egyptian U.S. embassy in Cairo
16 raised concerns with an organization called GOEIC raising the
17 situation again, and GOEIC didn't do anything for him.

18 So, this was, as Mr. Tate conceded, completely Egypt's
19 decision. It was Egypt's choice to use a certifier that did
20 not have prior experience. A startup organization, which is
21 what IS EG Halal was, correct. And Bret Tate said Egypt was
22 able to choose the certifier that they want, and they did.

23 By the way, and we just talk about this for a second.
24 Leaving aside it was entirely Egypt's choice, no matter who
25 raised the issue and at what level, Egypt's decision wasn't

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1 without basis. Having a single certifier could be a good
2 thing. In terms of having uniformed standards that are
3 implemented and enforced. Now, obviously, the government in
4 this case and their witnesses all used the term "monopoly" and
5 they tried to, if you remember Mr. McKinney in particular,
6 tried to suggest monopolies are always bad.

7 But in this case, all that it simply meant for Egypt,
8 the decision-maker, was having a single entity making uniform
9 decisions about whether the meat that Egyptian consumers were
10 eating met halal standards.

11 Indeed, you will have IS EG Halal's contracts before
12 you, they're in evidence, both the original one and the current
13 one, and you'll see that under this contract, Egypt assures
14 compliance with Islamic law. And you heard Dr. Sayed the other
15 day talk about that as well.

16 When you take a look at this for yourself, but just to
17 refer you for your notes, Defense Exhibit 1302, line 1198-1,
18 which is that contract, something we added. And it was
19 important to Egypt that they do this because you will recall
20 that Dr. Kareem wanted all certifiers to uniformly require
21 transverse cutting, but some were permitting lateral cuts which
22 is not in compliance within Egyptian halal standards. Indeed,
23 this was the specific complaint from Egypt, although it was
24 apparently unknown to Undersecretary McKinney who complained he
25 had not been told it by his subordinates. As Mr. Tate

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1 acknowledged on cross-examination, the Egyptian officials were
2 not okay with the up and down cut.

3 Auditors were also concerned that stunning practices
4 were causing animals to die before slaughter, which would not
5 be halal. Again, something that Undersecretary McKinney did
6 not know from his underlings but which you heard from Dr. Sayed
7 and others throughout the course of this matter.

8 No doubt, prices increased after Egypt determined to
9 use a sole source certifier, and the government does repeatedly
10 refer to this as a lucrative monopoly.

11 But let's be clear. The contracts, which, again,
12 you'll have before you between Mr. Hana's company and the U.S.
13 IS EG Halal Certified Inc. and the Egyptian joint stock company
14 which was described by Dr. Sayed, with which he contracts,
15 provide that Mr. Hana's company only gets 30 percent of the
16 revenue from each certificate issued, whereas Egypt gets
17 70 percent. That's Egypt's decision and has contracted for
18 very favorable terms, as you might expect it to do.

19 Clearly, in any event, Egypt understood that as both
20 Undersecretary McKinney and Mr. Tate repeatedly acknowledged,
21 their job was to advocate for U.S. business. Bret Tate said
22 it. So my job is to advocate for the interests of U.S.
23 businesses. And Ted McKinney said my primary goal was to
24 increase the market for American agricultural products.

25 Egypt understood it was not their job, as they

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1 advocated for what they thought was right to do what was best
2 for Egypt or for Egyptian consumers. Or even, as we heard with
3 respect to the whole Ractopamine thing, what is best for human
4 health.

5 Even the government agreed that startups were good.
6 The government being Mr. McKinney. They knew that IS EG was a
7 startup, and it was among the businesses for which Mr. Tate
8 advocated. Remember there was a list of seven, and he said he
9 was advocating for all of them and one of them was IS EG Halal,
10 a startup business.

11 By the way, IS EG Halal was a very good choice. Will,
12 as even Jose Uribe testified, worked very hard to get up to
13 speed with regard to halal and did it, eventually running an
14 operation that, as the testimony made clear, did not result in
15 anything like the market disruptions that McKinney and Tate had
16 feared. Indeed, by May 14, remember they start the contract on
17 May 1st. By May 14, less than two weeks after the contract
18 went into effect, the system was apparently working well.

19 So, Travis Arp from USMEF, which is the export meat
20 federation, says I've done some outreach to the packers and
21 exporters on this yesterday and today, and none seem too
22 concerned about the letter. Meaning the letter with regard to
23 protesting IS EG Halal. They actually appreciated IS EG being
24 proactive on this so as not to interrupt their business.

25 And even Mr. McKinney had to acknowledge that there

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1 was a \$28 million increase in U.S. beef exports to Egypt from
2 2018, before IS EG, to 2022, and that included during the COVID
3 pandemic which was, as he said, difficult for business.

4 But regardless, again, it was entirely an Egyptian
5 decision, which it could make for this reason or any reason.
6 For example, if Egypt wanted to, and apparently it did, it
7 could make its decision based upon the fact that Will Hana had
8 contacts in the Egyptian government, something that Mr. Tate
9 clearly noted when he met with Will on the Egyptian delegation
10 in Washington. Tate testified that there was an obvious
11 relationship between Will and Dr. Kareem, and that he suspected
12 the relationship had something to do with why Will got the
13 contract. He suspected, I thought he said, that IS EG had
14 built a relationship with Egyptian officials in order to gain
15 the business.

16 So, maybe that's not a good thing. Maybe, you know,
17 as we all know, you know, contacts make contracts. Maybe
18 that's not the way the world should work. But it is the way
19 the world does work. We all know that. This is not a perfect
20 Utopian world and it is not illegal. It's just a practical
21 reality.

22 One thing is for sure. No crime is or could be
23 charged based upon Will Hana getting his contract through
24 contacts he had in Egypt. Nor was there anything wrong with
25 Will getting contract because as a Coptic Christian he was

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Summation - Mr. Lustberg

1 favored by the new El-Sisi regime in Egypt, as you heard from
2 Sarah Arkin. There was no crime in Will getting this contract.

3 Now let's talk about what the government really says
4 the crime was, which is Senator Menendez's call to
5 Mr. McKinney. Wasn't that, the government says, the result of
6 a bribe? Well, it wasn't. There was no bribe or promise, and
7 the government's argument that Nadine's statement on April 8
8 seems like halal went through, it might be a fantastic 2019 all
9 around, doesn't show that there was any bribe or promise.
10 Instead, it falls into that category of her being happy for
11 Will, and she was hoping he would get her a job too, somehow
12 becoming a sinister thing.

13 As she recognized, long before the call to McKinney
14 about halal having gone through, that so, again, she knows by
15 that time, by the time of April 8, that in fact the day before
16 Dr. Kareem had sent his report summarizing the problem with the
17 other certifiers to Will.

18 And all of that, all of it, happened without any
19 action by Senator Menendez. No bribe or promise at that stage.

20 But the government argues there were two bribes that
21 were paid to get Menendez, Senator Menendez to make the call to
22 Mr. McKinney. Even though there was no reason to pay a bribe,
23 because it could not and did not matter.

24 First, the government claims that Will paid Nadine's
25 mortgage, and second, they argue that Will gave her a, quote

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1 unquote, no show job. Let's look at each of those and think
2 together about whether it makes sense that these were bribes
3 with the corrupt intent that the law requires.

4 When you look at it, think about it carefully, you
5 will see that the government's theory with regard to each of
6 these alleged bribes, the purported quids in the quid pro quo
7 formulation, just doesn't make sense.

8 So let's take them one at a time. First, the payment
9 of the mortgage. No doubt, Nadine was desperate to have her
10 mortgage paid. She said it repeatedly. She was panicked about
11 it.

12 But rather than just paying it, as he would have if he
13 were try to curry favor with the senator by bribing him, by
14 giving money to his wife, that is not what Will Hana did.
15 Instead, think of the evidence you heard. He put Nadine in
16 touch with his lawyer John Moldovan and had him draft
17 appropriate loan documents and follow up to get them signed.

18 So here is the promissory note in front of you, and
19 let's just look at it for a moment, what it says. It doesn't
20 require monthly payments. It requires like a balloon payment
21 that gets paid on June 28, 2021, which we'll come back to. It
22 is a zero interest loan. Good loan. And it requires that the
23 entire principal balance be paid in full on or before maturity
24 date. We'll talk about that a little bit later.

25 Then, as you will see here, John Moldovan, the lawyer,

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1 follows up repeatedly with Nadine to get her to sign that
2 contract. Ultimately she doesn't.

3 But, you can see that over and over, there was this
4 evidence of the intent that there be a loan, not just a
5 payment. Then, he indicated that, that is Will did, that it
6 was a loan on the actual check provided. This is back in 2019,
7 loan.

8 The government is going to say, well, that's all part
9 of a cover up. But now this is way before there is any
10 investigation. It really requires the greatest speculation.
11 They wrote "loan" because they were afraid it was going to look
12 like something bad.

13 The government, by the way, in their summation doesn't
14 mention this check.

15 It was no surprise, of course, to Nadine who had
16 specifically told her then very close friended Jose Uribe at a
17 time when she was particularly frustrated, one of those down
18 times with Will, that she would pay it back. You remember this
19 text. I will pay him back, she says. The intent was that it
20 be a loan. Government doesn't mention this one either.

21 So, the government says that you know that this was a
22 bribe and not a loan, even though Mr. Monteleoni conceded
23 yesterday that Hana wanted it paid back at first, because it
24 was not paid back when it was due, which was on June 28, 2021.
25 Again, no monthly payments were due, there was no monthly

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1 payments that had been missed. And there is absolutely no
2 correspondence, nothing, in all these e-mails and all these
3 texts and all this documentation demanding that the loan be
4 forgiven. No point at which Nadine says forgive the loan. No
5 point indicating that it had been forgiven, and no
6 communications with Will where he says don't worry, I'm not
7 going to collect on the loan.

8 If you were trying to bribe somebody, you would let
9 them know that you were in the process of forgiving their loan.
10 You would make it clear that you had no intention of collecting
11 on it. There is nothing. Nothing in this record along those
12 lines.

13 And as you know, she ultimately did pay it back.
14 That's the subject of the obstruction charge. The government
15 says that when it gets paid back as a, quote unquote, payment
16 of a loan, that that was just a lie. But they have to say
17 that. Because otherwise, this part of the case just falls
18 apart. And if this part of the case falls apart, then their
19 big evidence, which is this is the reason why Mr. McKinney made
20 that two-to-four-minute call to Senator Menendez, also falls
21 apart.

22 So, let's be clear. This loan could easily have been
23 a gift. Then we would be arguing was it a gift or was it a
24 bribe. But it was a loan. It was a loan that ultimately got
25 repaid. It was a loan that was labeled a loan. It was a loan

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1 that Nadine said she was going to pay back. It was a loan that
2 Will Hana tried to get paperwork to show that it was legal
3 paperwork from his lawyer trying to make it a loan. And that's
4 what it was.

5 Now, should he have leaned on her to pay it back
6 sooner? I'm sure he wishes he had. But that was not the
7 nature of their longstanding friendship and relationship. And
8 it absolutely happened that her failure to pay happens long,
9 long after the call to McKinney. That happens -- it was due in
10 2021. The McKinney call that this is the justification for,
11 remember, this is in 2019.

12 So, the idea that that forgiveness of the loan, which
13 demonstrates that it was not a loan but a gift, happens 2 years
14 after the call. Think to yourself how could that be the bribe.

15 Now let's talk about the other government theory for a
16 bribe in connection with the McKinney call. It has to do with
17 the idea that Nadine was provided with a no show job by IS EG
18 Halal.

19 Now, she may have wanted a no show job, but that's
20 actually not what happened. In fact, what really did happen,
21 and by the way, I should note, if there had been just wanted to
22 give her money, Will could have given her money. If he wanted
23 to give her gold bars, as you know in that time period, he
24 could have given her gold bars. He did in fact for gifts. But
25 there is none of that. Instead, what he does is give her a

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Summation - Mr. Lustberg

1 job.

2 So, what was going on there. Will has a new business.
3 He has a friend. And he's going to give his friend the chance
4 to do some work for his company. He specifically gave her a
5 task to open up a foreign office in India. But it's more than
6 that. We'll come back to be the foreign office in India in a
7 moment.

8 There's going to be a contract, and you heard Mr. Fee
9 talk a little bit about the LegalZoom contract that was done
10 and amended and sent over. But let's look at that contract and
11 then let's look at the contract that ultimately gets entered
12 into.

13 The one on left is the consulting agreement that's
14 proposed by Nadine. And what you see is that it starts on
15 May 1st, it has an indefinite term length, and it has payments
16 that are supposed to be made at the start of each month.

17 The one that gets entered into, although nothing's
18 ever signed, but the one that ends up being operational starts
19 on September 1st, 2019, and it has three months. It can be
20 renewed, and the payment is at the end of the month. It is a
21 much less favorable deal. And in particular, critically, it
22 lasts three months at \$10,000 per month.

23 Now let's talk about that for a minute. John Moldovan
24 testified that was what he recommended, the one with the term
25 that was on the right. Why did he do that? He did that so

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1 that -- this was his testimony -- that Nadine's performance
2 could be reviewed.

3 Now, would Will Hana have entered into an agreement
4 for a much shorter term than what she wanted, with her
5 performance to be reviewed, if he was trying to bribe her?
6 Does that bespeak the corrupt intent that the government has to
7 prove?

8 Just ask yourself. She presents him with a deal. He
9 doesn't take that deal. What kind of bribe is that? Instead,
10 what he does is he proposes a deal that is shorter term, and
11 we'll see what happens with that. And he then makes her go to
12 work. And she doesn't want to go to work. She complains about
13 it. Okay.

14 This is a voicemail that you heard between Nadine and
15 Fred Daibes. Good morning, Fred, this is Nadine. We don't
16 have to read all of this but she kind of goes on and on about
17 the mortgage. And talks about how Will wants a promissory
18 note, I won't do that before I talk to Bob about it. I won't
19 do that until Bob comes back from his business trip. It's
20 obvious that he doesn't trust me.

21 But, and then she complains, and in that
22 second-to-last line, I need to be in the office eight hours a
23 day. Obviously not something she wants.

24 Is this a bribe? Is this what you do if you're trying
25 to curry favor with a girlfriend or later wife of a U.S.

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Summation - Mr. Lustberg

1 senator, that you bargain hard and then you make her come to
2 work eight hours a day when she doesn't want to?

3 (Continued on next page)

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Summation - Mr. Lustberg

1 MR. LUSTBERG: And then -- you can take that down --
2 he essentially fires her.

3 Mr. Richenthal, cross-examining Ms. Silvarredonda,
4 says that that was kind of harsh, it happened in a very quick
5 period that he suddenly lets her go. And then he says, you
6 know, he didn't really let her go because he paid her the next
7 month's payment. But is that what he would have done if he was
8 bribing her? She doesn't do the job as quickly or well as he
9 wants, and so he lets her go. And there you see it, Carolina
10 Silvarredonda telling Nadine, thank you, we appreciate your
11 time and search, but we have a person already in charge of the
12 Delhi office. Again, Mr. Richenthal said, well, that all
13 happened too quickly. But again, there, is that the kind of
14 conduct you would have if you had the corrupt intent to pay
15 someone a bribe in exchange for getting the senator to make a
16 call to the U.S. undersecretary of agriculture? It just
17 doesn't make sense. It doesn't show the corrupt intent.

18 And finally, he doesn't even pay her what she thinks
19 she's owed. This is a document here I want to spend just a
20 minute on, because it was featured rather extensively in
21 Mr. Monteleoni's summation.

22 So, this is Nadine's understanding of what the deal
23 was. She was supposed to get paid May 1, June 1 and July 1
24 under the contract that was not the one that Will accepted. So
25 that would have been \$30,000. But look what she says in

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Summation - Mr. Lustberg

1 there -- July 19 cashier's check for \$22,516.54 to the mortgage
2 company. Well, if she thought she had a job for \$30,000, why
3 would she count the \$22,000 to the mortgage company as a credit
4 somehow against that \$30,000 that she was supposed to get paid?

5 She would only do that if that \$22,000 really was a
6 loan, which is what we've been saying. So this document, even
7 though the government touts it, really stands for the
8 proposition that she understood that that \$23,000 had to be
9 paid back. Otherwise that wouldn't make sense.

10 And then she gets paid the \$10,000 per month, and she
11 says that there's more owing to her, that she was owed
12 \$26,431.46. At the time there was \$10,000, so essentially
13 \$6,000 more. He doesn't pay her that. He pays her the
14 \$30,000. And again, the question is should he have? Was that
15 a good investment of his, to pay her \$30,000? Who knows? But
16 is that what you do if you're trying to curry favor? Is that
17 what you do if you're trying to, it's a *quid pro quo*, where
18 you're giving somebody money in exchange for something in
19 return? It just doesn't work. It just doesn't make sense.

20 So just back to the McKinney call for a second.

21 There was then really no *quid*, and there was also no
22 *quo*, the *quo* being what Senator Menendez did, because as Under
23 Secretary McKinney testified, and it was in his documents as
24 well, that what Senator Menendez did was that he brought up a
25 constituent. Of course, this was something that McKinney

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Summation - Mr. Lustberg

1 understood. McKinney understands constituents because he had
2 previously, as he testified, fielded calls from members of
3 Congress advocating for their constituents. And he himself
4 said that he understood the whole idea of constituency, because
5 he described his constituents as, quote, the entire food value
6 chain, farmers, ranchers all the way to the processor and the
7 exporter. He knows that public servants, like him and like
8 Senator Menendez, serve constituents. And here, what Senator
9 Menendez did was a simple call on behalf of a constituent who
10 felt aggrieved by the U.S.D.A.'s actions in denigrating him in
11 one of those GAIN reports and had been picked up in an Alborsaa
12 article, which prompted Senator Menendez's call to
13 Mr. McKinney.

14 But Mr. Fee made this point earlier. It's worth
15 remembering what happens after that, which is Bob Menendez
16 never follows up again. He makes this call, and that's it.
17 That is constituent services. Somebody's having a problem with
18 a government agency, the senator makes a call on his behalf,
19 that is the *quo* of the *quid pro quo* in a situation where the
20 *quid* is a loan, not a payment, and it is a job, not a bribe.

21 Finally, in this regard, just quickly, in order for
22 you to find that there was a bribery offense, the offense is
23 really providing a thing of value in exchange for an official
24 act. And as Judge Stein will instruct you, I believe, an
25 official act does not cover every single thing a senator does.

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Summation - Mr. Lustberg

1 Instead, there has to be -- I believe this is what he'll say --
2 a specific question or matter pending before a public official
3 upon which the public official acts. Nor, the law is clear, is
4 just talking with another official alone enough.

5 Was there a specific question or matter before the
6 public official here?

7 As we have discussed, whether or not to give IS EG
8 Halal the sole-source contract was not a decision of the U.S.
9 government. It was a decision of the government of Egypt, and
10 it was its decision alone. And while Under Secretary McKinney
11 may have had his own views on what Egypt should have done, the
12 U.S. had no role -- none -- in deciding whether or not to give
13 IS EG Halal the contract. This was, quite simply, Senator
14 Menendez speaking to another official about a report, not
15 something that was within that public official's
16 decision-making powers. It was not an official act. It was
17 just advocacy for a constituent.

18 So, in sum, the government is asking you to believe
19 that Will bribed Senator Menendez to influence Mr. McKinney who
20 himself had no influence on the country that awarded Will the
21 contract. It doesn't make sense. It can't be supported by the
22 notion, it doesn't support the notion of corrupt intent. But
23 in any event, it doesn't satisfy what the bribery statutes
24 require -- a pending matter that a public official can actually
25 do something about.

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Summation - Mr. Lustberg

1 Judge, I'm just going to suggest that maybe we could
2 do one of those afternoon stretches.

3 THE COURT: Sure.

4 Ladies and gentlemen, why don't we all stretch.

5 MR. LUSTBERG: OK. I'm good.

6 THE COURT: All right. Thank you, ladies and
7 gentlemen.

8 MR. LUSTBERG: OK. I said there were three schemes.

9 We talked about one of them, which was the IS EG Halal
10 contract. There are two more to go. It's not going to be that
11 long. The second has to do with the benefits that went to
12 Egypt.

13 The government's theory, if I understand it correctly,
14 seems to be that Egypt gave that contract and, therefore, lots
15 of money to Mr. Hana, in part, because of his relationship with
16 Senator Menendez through Nadine. Will, in order to get that
17 contract, made that relationship known to the Egyptians by
18 taking steps to introduce Senator Menendez to the Egyptians,
19 and that's why you heard so much evidence about these dinners.

20 Will then, according to this same theory, paid bribes
21 to Senator Menendez, which he could now afford to do because
22 the Egyptians had provided him with this contract. And then
23 Senator Menendez, in turn, took actions to benefit Egypt that
24 he would not have but for these bribes. And basically, the way
25 the benefits come out, according to the government's theory, is

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Summation - Mr. Lustberg

1 that they were two kinds. One was that Senator Menendez,
2 quote/unquote, softened his position on Egyptian human rights
3 violations; and second, that he gave Egyptians sensitive,
4 nonpublic U.S. government information.

5 This whole scheme breaks down at each step of the
6 process, and so I'm going to walk you through those four stages
7 that I just talked about that is the only way that this could
8 possibly be a crime.

9 So first step, for it to prevail, the government would
10 have to show that the reason that Will got the contract was
11 because of his relationship with Senator Menendez. But this
12 falls apart because, as you've seen, Will, who is a native
13 Egyptian, has got contacts of his own among Egyptians. There
14 was no evidence, none whatsoever, that those contacts came
15 about because of his relationship with Nadine or Nadine's
16 relationship with Senator Menendez. There is no evidence that
17 those relationships originated, when those relationships
18 originated or that they, in fact, came about after Nadine began
19 to date Senator Menendez in February of 2018.

20 Indeed, the government introduced no evidence --
21 nothing -- to show that Will's longstanding relationship with
22 Nadine had anything to do with the formation of his
23 relationships with the Egyptian officials, Egyptian
24 intelligence officials who were, you remember, in Sarah Arkin's
25 words, omnipresent, including, she said, with regard to

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Summation - Mr. Lustberg

1 economic matters. So again, there's lots of evidence of Will
2 having Egyptian contacts, of him traveling to Egypt, of him
3 having other economic dealings with Egypt.

4 Nor, as we've discussed, is there any evidence that
5 Will got the contract because of his relationship with Nadine
6 or through her with the senator. To the contrary, as I said --
7 I'm not going to repeat it -- there were lots of good reasons
8 why Will got the contract even beyond his relationship with
9 Egyptian government officials, including that he's a Coptic
10 Christian, including that he worked incredibly hard.

11 Actually, let me, if we could, pull up the slide where
12 José Uribe describes how hard he worked.

13 José Uribe's testimony:

14 "Q. In 2018, Will was studying, correct?

15 "A. I saw it in his office writing notes, and he told me he
16 was doing some studies.

17 "Q. Related to his meat business?

18 "A. That's what he -- best of my recollection, that's what he
19 said."

20 Will worked hard to get up to speed -- you can take
21 that down -- on halal, and it worked. The government says he
22 didn't deserve it because he had past financial failures.

23 Our view is that he got it through his own hard work
24 and, yes, good contacts. And what we have here really is a
25 success story, which is a wonderful thing. And there were, as

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Summation - Mr. Lustberg

1 I said, and as you heard, legitimate issues with regard to the
2 halal certifiers in the U.S. during the 2019 audit, something
3 that Dr. Sayed testified, and that you heard during the
4 testimony.

5 So first of all, the idea that Will got this contract
6 because of his relationship with Menendez doesn't make sense.

7 Second, the government's strained theory requires you
8 to find that Will exploited his relationship with Nadine and
9 Bob to get that IS EG Halal contract so that he could then
10 generate money for bribes. The government's theory seems to be
11 that Will showed Egyptian officials, through these various
12 meetings with them, that he had -- and with Senator Menendez,
13 who accompanied him to a number of these meetings, along with
14 Nadine, that he had these relationships. According to the
15 government's theory and its indictment, this was all
16 accomplished in a series of meetings and dinners, which you
17 heard about and you've seen selfies from and you've seen
18 pictures from and you know about the restaurants that they were
19 in.

20 But you also heard evidence that it's completely
21 appropriate for a senator, particularly a member of the Senate
22 Foreign Relations Committee and particularly the chair or
23 ranking member of the Senate Foreign Relations Committee, to be
24 meeting with, A, foreign officials, and B, constituents. And
25 that's what these dinners were. They were completely normal

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1 activities for senators and especially for people who had the
2 responsibility to the international community that Senator
3 Menendez did.

4 Nor has the government proven -- and certainly the
5 surveillance didn't prove -- that there was anything out of the
6 ordinary with regard to the meetings that occurred. For
7 example, you heard about a March 2018 meeting in Senator
8 Menendez's office. You might remember there was a picture of
9 everybody standing there in the office, and what you heard was
10 that at that meeting Egypt had made the usual asks -- that was
11 the phrase, "usual asks" -- to stop imposing conditions on aid
12 to Egypt and that Egypt had made the usual threats, which is
13 that if the U.S. didn't treat them well, they would go to
14 Russia for military aid. And there was a meeting of the
15 so-called white paper delegation. I don't know if you remember
16 that, but you'll have plenty of exhibits on it, about a meeting
17 in July 2018. That was a meeting that the Senate staff
18 recommended he take. And you'll see the evidence that the
19 staff pushed him to have that meeting about U.S.-Egyptian
20 relations. This is in July 2018.

21 So these are formal meetings, but then there's also
22 the dinners, and the question is -- again, the theory is that
23 these dinners show the Egyptians that Will Hana has contacts
24 with Senator Menendez, so the only ones that would really
25 matter are the ones before he got the contract. And look, I

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Summation - Mr. Lustberg

1 mean they're dinners. And as we saw, there's not a lot -- you
2 don't know what was said in those dinners, for sure. But the
3 truth is that there are also only exactly three of them -- on
4 July 9, 2018, February 6, 2019, and April 8, 2019 -- before the
5 contract was awarded. And there's no evidence to support the
6 theory that Egyptians were providing the contract to Will for
7 the purpose of generating bribes, which is the second piece of
8 this. Even the government's citation to Will offhandedly
9 describing Senator Menendez to Ahmed Helmy as our man, when
10 Senator Menendez was on his way to India, occurred well after
11 this, in September 2019, during the year when -- I'm sorry.
12 I've got my years mixed up.

13 Anyway, the focus here is on what meetings occurred
14 prior to Will getting the contract, and again, the government's
15 theory is pretty simple: that he got the contract so he could
16 generate bribes, but there's just no evidence that at any of
17 those meetings that was discussed. There is no text to
18 indicate it. The whole idea here is one that's just
19 fabricated. And that's true as well of later meetings. So it
20 can't be that meetings that happened after he got the contract
21 are ones that were used to get him the contract so that he
22 could generate those bribes. And that includes the famous
23 CODEL meeting, which you heard a lot about. And when you think
24 about that CODEL meeting, think about the fact that everybody
25 thought these CODEL meetings are a good thing. Sarah Arkin

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Summation - Mr. Lustberg

1 testified: I had suggested that Senator Menendez make a trip
2 to Israel and Egypt, given their respective bilateral
3 relationships, significant bilateral relationships with the
4 United States and the importance of geopolitical and geographic
5 location of both countries.

6 She said that she had been strongly recommending a
7 CODEL to Egypt. So this whole idea that these meetings were an
8 effort to essentially create a relationship whereby bribes
9 would be generated from Mr. Hana to give to Senator Menendez
10 just falls apart, because either it doesn't make sense in terms
11 of the timing or because we simply don't know that anything
12 close to that is discussed in the meetings.

13 And even if you decide that the loan or the job
14 amounts to some sort of bribe, those don't match up with
15 actions that Senator Menendez took to benefit Egypt. Let's
16 think about that. So again, you'll remember that those things
17 happened in 2019. So there's really two categories of action.

18 One category of action is Senator Menendez allegedly
19 acting in Egypt's interests by ghost writing a letter setting
20 forth Egypt's position with respect to certain particular
21 policy issues. In the context of what you heard from a number
22 of people -- Josh Paul, Sarah Arkin -- it's a very complicated
23 relationship between the U.S. and Egypt. You learned a lot
24 about that today -- in this trial, rather. Egypt is a very
25 important strategic partner, on the one hand, but a significant

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Summation - Mr. Lustberg

1 human rights violator, on the other. And Senator Menendez, as
2 a good senator does, listened to his constituents and got some
3 guidance from Will, who knew a lot about it. But he didn't, at
4 the end of the day, in this so-called ghostwritten letter or
5 anywhere else set forth any policy positions that are different
6 than what the appropriate U.S. position was, other than there
7 comes a time, as Sarah Arkin testified, that he decides, and
8 we'll come back to this, he decided to pursue a somewhat
9 quieter diplomacy.

10 Let's look at the so-called ghostwritten letter.

11 This is the C301, Government Exhibit C301, which is
12 the version of it that Will sends. So it says:

13 The Egyptian state alone bears the burden of securing
14 its western border, which extend to about 1,200 kilometers with
15 Libya. This insurance is supposed to be a joint responsibility
16 between the two sides. However, we, meaning Egypt, succeeded
17 in monitoring and destroying about 1,300 armed SUVs carrying
18 terrorists during July 2013 until the end of 2017.

19 Will is providing that information to Senator
20 Menendez. It's not improper. It's not wrong. It's not
21 inaccurate. It's helping him to advocate.

22 And then it goes on to say:

23 It must be clear to you in Congress and also in the
24 other American political circles that Egypt is keen to
25 establish strong strategic alliance relations with the United

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1 States and to overcome any obstacles that may arise in order to
2 catch up.

3 So these policy positions are well-established policy
4 positions. There's nothing unusual about either of them.
5 There's nothing improper about either of them. There's nothing
6 radical about either of them. There's nothing where Will is
7 asking Senator Menendez to take a position that is not one that
8 is consistent with what he said before. And sure enough,
9 Senator Menendez helps Egypt to draft something that may be
10 persuasive to his fellow congresspeople. It may be
11 unconventional to do that, but there's no evidence that that's
12 not something that happens all the time. The government,
13 however, maintains that Senator Menendez softened his position.
14 In fact, what Sarah Arkin said was that Senator Menendez was
15 committed to human rights improvements in Egypt and continued
16 throughout to raise human rights concerns directly with the
17 Egyptian officials in meetings, all while acknowledging the
18 important role that Egypt plays strategically to the United
19 States in the Middle East.

20 Senator Menendez's positions were wise and
21 justifiable, and although the government talks about this
22 ghostwritten letter, what he's really just doing is helping to
23 advise Egypt about how to deal with the U.S. Congress in a way
24 that is completely justifiable as a matter of American policy.

25 Nor has the government, as I said, shown that this is

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Summation - Mr. Lustberg

1 not what congresspeople do. But whatever the merits of all of
2 that, of the whole taking this position, the point is that this
3 all occurs in May 2018, almost a full year before the IS EG
4 Halal contract. And for that reason, the government's theory
5 that IS EG Halal generated bribes to get Menendez to take
6 certain official actions simply doesn't work. But remember,
7 again, their theory, the theory here is that bribes are
8 generated, IS EG Halal's created so that it can generate bribes
9 so that Menendez will take certain actions. But IS EG Halal
10 starts May 1, 2019, and this ghostwritten letter is in May of
11 2018, a year before.

12 And that is also true -- so let me just say, just to
13 back up, the government's case is based upon timing. Listen
14 for that timing. Take that timing into account. That timing
15 matters for the defense case as well. And that's true with
16 regard to the nonpublic information that Senator Menendez
17 purportedly provided to Egypt.

18 So there's the embassy figures. And Mr. Fee spent a
19 good amount of time on that. The embassy figures, the
20 information about the U.S. embassy was provided also in May
21 2018, and again, a year before IS EG Halal even is in
22 existence. It's not tied to any bribe. It just isn't. Nor is
23 it in response to even any kind of ask from Egyptian officials.
24 There's no emails, texts or anything in what you saw where
25 Egypt says get us this information. And while Mr. Tate

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Summation - Mr. Lustberg

1 described it as somehow putting people in danger -- and leaving
2 aside the public nature of it, as Mr. Fee described -- it's
3 really hard to see how it does that. The information that was
4 provided was just this: that there are 277 Americans and 1,344
5 Egyptians working at the embassy. That's it.

6 How that endangers people is really hard to
7 understand, and Mr. Tate should have had to explain it in a
8 little more detail if you're going to take that seriously. But
9 either way, the whole idea that that was done in exchange for a
10 bribe that was generated by IS EG Halal just doesn't work from
11 a time-frame perspective.

12 Likewise, the information that the ban on small arms
13 and ammunition to Egypt has been lifted, the government says
14 that that information that was passed on to Will and then from
15 Will to the Egyptians, occurs a year -- a year -- before.
16 That's also in May 2018. It was actually May 18, 2018, so a
17 little less than a year before IS EG Halal was in existence.
18 And that also was public within moments. So the notion that
19 that was some kind of nonpublic information just doesn't make
20 sense.

21 Finally, there's the text to Nadine from Senator
22 Menendez, saying, tell Will I'm going to sign off on the sale
23 to Egypt today. This was the \$99 million sale primarily of, I
24 think, tanks to fight terrorists in the Sinai. That occurred
25 on July 26, 2018 -- again, almost a year before IS EG Halal was

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Summation - Mr. Lustberg

1 in business. So the government theory that IS EG Halal was
2 created to create bribes to influence Senator Menendez just
3 doesn't work with the time frame.

4 Finally, the whole theory turns on Senator Menendez
5 doing that which was in Egypt's but not in the U.S.'s
6 interests, based upon the bribes. And let's talk about how
7 that all came about.

8 So Sarah Arkin testified that Senator Menendez opted
9 for a more quiet and more specific engagement. According to
10 her, we've been criticizing Egypt. We've been going after them
11 for so long on human rights, have been really out there
12 publicly criticizing them, and it hasn't really changed
13 anything on the ground. Senator Menendez says I also have a
14 lot of Coptic Christians in New Jersey who really like
15 President Sisi and like what he's doing, so I want to do take a
16 different tactic. I wanted to try to engage privately and
17 engage more specifically and do more quiet engagement and
18 criticism on a lot of these issues.

19 "Q. But he was still -- he articulated to you he was still
20 committed to human rights improvements in Egypt, right?

21 "A. I don't think he said it that way, but he did continue to
22 raise human rights concerns directly with Egyptian officials in
23 meetings in which I was present."

24 So Senator Menendez's position doesn't soften much.
25 He continues to criticize Egypt's human rights record. He

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Summation - Mr. Lustberg

1 tries a new form of diplomacy when the old one didn't work, and
2 he does that in a way that's consistent with the interests of
3 his Coptic Christian constituents. That does not sound
4 anything like a crime, and it certainly doesn't amount to
5 acting as an agent of Egypt within the meaning of Counts
6 Fifteen and Sixteen of the indictment, as Mr. Monteleoni
7 described it to you, or of Will conspiring to make the senator
8 an agent of Egypt.

9 Senator Menendez was never acting at the order,
10 direction or control of Egypt or its officials -- there was no
11 evidence that he was -- or even, in most cases, at the request
12 of Egypt or its officials, as such a request must come from
13 someone who has, as Judge Stein will charge you, some degree of
14 authority over Senator Menendez. This is a requirement of the
15 law that has not been proven. In fact, as we said, Senator
16 Menendez's positions didn't change much over time, and so he
17 was never acting other than independently, following his own
18 views.

19 Now, let's talk about that. The government argued
20 yesterday that he couldn't have been acting independently
21 because he was being bribed. But listen to what I just said to
22 you. The bribes that are alleged here happened later. They
23 happened -- if you believe that they're bribes, and
24 respectfully, you shouldn't. They happened in 2019. The
25 positions that we talk about here were in 2018.

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Summation - Mr. Lustberg

1 Finally, it's important to remember that Senator
2 Menendez was certainly not alleged to be acting as Mr. Hana's
3 agent. He was alleged to be acting as Egypt's. So if he was
4 simply aligning his views with Will's, who he spoke to about
5 Egyptian policy, that is not being controlled by Egypt. And it
6 wouldn't be true to say that. You know, flip statements by
7 Will that he was our man, which the government relies on a
8 great deal, just don't do the trick. Both Senator Menendez and
9 Will must be acquitted of those charges.

10 Your Honor, I have one section left. I don't know if
11 you want to take more of a break.

12 THE COURT: Yes. Let's take a break now.

13 Ladies and gentlemen, why not make it ten minutes and
14 we'll come back. My deputy will get you after ten minutes.

15 (Jury not present)

16 THE COURT: Ten minutes.

17 Thank you.

18 (Recess)

19 THE COURT: Let's get the government lawyers in here.

20 Ms. Blakely, is the jury there?

21 OK. You can bring them in.

22 MR de CASTRO: Before they come in, can I just ask --

23 THE COURT: Yes, of course. We're on the record.

24 MR de CASTRO: My understanding is that Mr. Lustberg
25 will probably wrap around 4:30.

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Summation - Mr. Lustberg

1 THE COURT: Mr. Lustberg, what's your estimation?

2 MR. LUSTBERG: Just to give you a sense, it was a
3 40-page outline, about 4:30.

4 THE COURT: If there's even a half hour, I would like
5 you to start, sir, yes. I want to get as much before this jury
6 as possible.

7 (Jury present)

8 THE COURT: Please be seated.

9 You may continue, Mr. Lustberg.

10 MR. LUSTBERG: Thank you, your Honor.

11 The third and final bribery plot in which Mr. Hana is
12 charged is the Parra-Uribe scheme that Mr. Fee talked quite a
13 bit about earlier today, so I'll do my best to not repeat what
14 he said. And again, you know what that's about. The idea is
15 that there's this purchase of a car for Nadine, and somehow
16 Will is implicated in that.

17 This is surprising, given the true facts of this case,
18 which, as you'll see, are ones in which Will has really almost
19 nothing to do with it. And we'll go through that. But the
20 question here is whether there was a *quid pro quo*. Again, that
21 is a promise to pay a benefit in exchange for an official act
22 in return. Here, the *quid* is a car and the *quo* is a purported
23 effort by Senator Menendez to interfere in a pending New Jersey
24 State criminal prosecution.

25 The *pro* comes entirely from José Uribe. Judge Stein

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Summation - Mr. Lustberg

1 will instruct you on one of the most important things in the
2 criminal justice system later, which is the definition of
3 beyond a reasonable doubt. And when you think about José
4 Uribe's testimony, I'm going to ask you to really carefully
5 apply the definition of beyond a reasonable doubt.

6 Beyond a reasonable doubt is -- a reasonable doubt is
7 a doubt that is of -- let me try it again.

8 Beyond a reasonable doubt means proof of such a
9 convincing character that you would not hesitate to rely and
10 act upon it in the most important of your affairs -- such a
11 convincing character that you would not hesitate to rely and
12 act upon it in the most important of your affairs.

13 So as you think about the evidence that came from José
14 Uribe, ask yourself if Mr. Uribe was so convincing and
15 trustworthy that you would place your faith in him in the most
16 important affairs in your life. Ask yourself, would you trust
17 him if he told you where you should live, who you should marry
18 or how to invest your money? Or maybe closer to home, would
19 you trust him to sell you your life, home or health insurance
20 policies? But even aside from that, even if you believe José
21 Uribe, neither the *quid* nor the *quo* have been proven with
22 respect to Mr. Hana even if they have with respect to José
23 Uribe or Elvis Parra or Bien Hernandez or Ana Peguero.

24 So let's start with the *quid*, the promise to buy a car
25 for Nadine, something she clearly wanted very badly after her

07aWmen5

Summation - Mr. Lustberg

1 own car was totaled in an accident. And so here let's talk
2 about four undisputed facts. I think it's four, hopefully.

3 Fact No. 1, José Uribe, not Will, made arrangements to
4 buy the car from Ray Catena. So this, Will had nothing to do
5 with the arrangements to buy the car. Nadine purchased her
6 Mercedes-Benz on April 5, 2019. You will see, when you look
7 through particularly exhibit 1303, that she purchased, in the
8 days leading up to that purchase, José connected her to a guy
9 named Leon Pereldik at Ray Catena Mercedes-Benz. Both José and
10 Nadine texted with Leon about Nadine's car purchase, but there
11 are no text messages, not one, no phone calls, not one, no
12 communication of any kind between Will and Leon or between Will
13 and anybody else at Ray Catena.

14 Take a look at 1303. Look through all of it. Look
15 through our version. Look through their version. You'll see
16 nothing. So that's undisputed fact No. 1. José made the
17 arrangements.

18 Undisputed fact No. 2, José -- not Will, José -- paid
19 for the car. The day before Nadine bought her Mercedes-Benz,
20 José met Nadine -- Mr. Monteleoni talked to you about this --
21 in the parking lot of Villa Amalfi and gave her \$15,000 in cash
22 for the down payment on her car purchase. Thereafter, José
23 made monthly payments on Nadine's Mercedes-Benz from May 2019
24 all the way through June 2022 -- 38 payments. So take a look
25 at exhibit 1303, lines 751 and 755, and you'll see that José

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Summation - Mr. Lustberg

1 asked Nadine to please send him the invoice -- not him and
2 Will; Will's nowhere -- send him the invoice. And later that
3 day, Nadine sends José a photograph of an invoice from
4 Mercedes-Benz Financial Services in the amount of \$891.26,
5 which was due on May 4, 2019.

6 There comes a time -- and this is important, you will
7 recall this evidence from José, and you'll see communications
8 about it -- where José asks his friends Bien Hernandez and
9 Fernando Barruos to help pay, but he never, ever asked Will to
10 help with the purchase of the new Mercedes-Benz.

11 That's undisputed fact No. 2. So José made the
12 arrangements. José paid.

13 Undisputed fact No. 3 -- and I said there were four,
14 but there were only three. Sorry.

15 So undisputed fact No. 3 is that, not surprisingly
16 under those circumstances, who does Nadine thank for the car?
17 Not Will. She thanks José for getting her the car. In fact,
18 Nadine tells Leon at Ray Catena, José will be my first
19 passenger. See that text: "Great. Thank you very much. I'm
20 going to have José be my first passenger."

21 And on April 3, 2019, Nadine texts José and says: You
22 are a miracle worker who makes dreams come through. I will
23 always remember that. She says you have done so much for me.
24 I will never forget it. For a lifetime, I will never, ever
25 forget what kind of true person and friend you are.

07aWmen5

Summation - Mr. Lustberg

1 This is Nadine and José during the time period of the
2 car.

3 By contrast, this is one of those down periods in
4 Nadine and Will's relationship. At the time she has pretty
5 much nothing good to say about Will; that is, beyond the facts
6 that there are no texts, no emails, no phone calls, nothing
7 connecting Will to providing the car, Nadine complains over and
8 over and over that Will is not helping her, not paying the
9 bribe, from the beginning to the end, when she wanted him to
10 take her to pick up the car. That's the only thing you'll see,
11 that at some point she says, can you help me pick up the car.
12 And he can't because he's actually in Cairo at the time.

13 So the contrast is stark. On the left is what Nadine
14 is saying about Will, and on the right is what she's saying
15 about José. So let's start with José.

16 There are only three people in the last ten years who
17 have affected and changed my life in a way I will never forget.
18 She is one of them -- I'm not sure who she's talking about
19 there -- you are another. Only three people.

20 Then on the other side, you see Will. Now *mon amour* I
21 have been so upset all morning. Will left for Egypt yesterday
22 supposedly and now he thinks he's king of the world and has
23 both countries wrapped around his pinky. I really hope they
24 replace him.

25 To José -- I said this one before -- you are a miracle

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Summation - Mr. Lustberg

1 worker who makes dreams come true. I will always remember
2 that.

3 About Will, she says, in an email with José: I'm
4 very, very hurt and disappointed by him once again, but I
5 should not be surprised.

6 To José: You have done so much for me. I will never,
7 ever forget it. I hope you know I will never have to repeat
8 this is always not just part two, but for a lifetime I will
9 never, ever forget what kind of true person and friend you are.

10 And look at that part two thing, because there's
11 nothing to Will ever about part two.

12 To Will, what does she say?

13 I'm not going to get angry or get any more upset, but
14 one day I would really love to know one of the pyramids
15 collapsed and he is trapped forever.

16 Different approach to these two people by Nadine at
17 that time.

18 To be sure -- we can take that down -- José testified
19 that he met with Will to discuss doing something with regard to
20 helping out with the Parra prosecution. So remember, what this
21 is all about is Parra is facing prosecution, and there's
22 supposedly a discussion, first outside Andy Aslanian's office
23 and then in the Glenpointe Marriott. But nothing with regard
24 to a car, which is the *quid*, and you need a *quid* for there to
25 be a bribe.

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Summation - Mr. Lustberg

1 So leaving aside José's credibility, which I'll have
2 more to say in a moment, even in his recounting at the initial
3 meeting at which Uribe claims this whole discussion took place,
4 he admitted to you that there was no discussion of getting a
5 car for Nadine.

6 José's testimony:

7 "Q. You testified that there was another meeting at the bar at
8 the Glenpointe Marriott with yourself, Mr. Hana, Mr. Hernandez
9 and Mr. Parra, right?

10 "A. That is correct.

11 "Q. And during that meeting there was no discussion of a car,
12 correct?

13 "A. At this point I don't remember a discussion of the car to
14 Nadine, no."

15 So the overwhelming evidence is that there really --
16 and we'll come back a little bit more to the discussion of what
17 happens at the outset -- that Will really was not in it. In
18 fact, he gets kind of cut out of this whole thing.

19 And how does that happen? From very early on, José
20 Uribe believes that Will either would not or could not do
21 anything to help him. And this is even true when they actually
22 eventually -- you'll remember this -- go to a dinner, José and
23 Will and Senator Menendez. And according to José, nothing
24 happened at that dinner because all that Will was doing was,
25 quote, trying to kiss the senator's ass. So Uribe told you he

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Summation - Mr. Lustberg

1 didn't want to go to another dinner with Will because he
2 thought it would be, quote/unquote, bullshit. And pardon my
3 French, as they say. In his own words, Uribe says he lost hope
4 for Will. So starting as early as October 13, 2018, José texts
5 Will and says: I will handle this from now on. I am going to
6 face it everyone. I will no allow anybody to harm my Ana.
7 That would be Ana Peguero.

8 José testified that what he meant by this was that if
9 Will is not willing to come through with the agreement for the
10 deal, I was not going to continue hoping that he's able to do
11 anything. So José testifies that, in March 2019, he speaks
12 with Nadine directly. He takes over, as he said, because,
13 according to him, time is passing, but nothing is developing in
14 a way that gave José assurance that this deal is to be
15 complete. I lost hope for Will. I decided to talk to Nadine
16 directly.

17 And on April 2, 2019 -- and you'll see this is on, if
18 you're taking notes, line 584 of exhibit 1303 -- José texts
19 Bien Hernandez and refers to Will and says: That friend of
20 yours is scamming people.

21 He explained that he became upset. He said: I'm very
22 mad at Will. I'm very upset with Will. Time and time passed
23 by and no sign of resolution was given from him to us. I was
24 upset and caught him scamming people.

25 So the theory seems to be that Will was saying he was

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Summation - Mr. Lustberg

1 going to do something and wasn't.

2 So José testifies, and he says it all in this passage
3 from his testimony: I found Nadine. Nadine and I entered into
4 an agreement. I am doing my part of the deal. She's already
5 picked up her car and willing to continue with the deal until
6 this gets fulfilled.

7 He and Nadine make a deal. He and Nadine make a deal.
8 Remember, to be guilty of bribery, you don't have to actually
9 pay; you have to have an agreement. But here, it's clear that
10 the agreement is not with Will. The agreement is between
11 Nadine -- I'm sorry. It's not with Will. It's between Nadine
12 and José.

13 And there's more.

14 Later that same night, as the day that, right around
15 the time of the purchase, Nadine tries to call José while he
16 and Will are in the car together. But because Will is there,
17 José texts Nadine and says, I cannot talk.

18 Talk about being cut out of it. This is what happened
19 to Will. He's cut out of that. He's cut out of dinners --
20 dinners. He stops appearing on texts. You may recall
21 Mr. Solano, in his cross-examination of Agent Graves, showed
22 there were no texts from Will in June 2019, none in July 2019,
23 none in August 2019, no relevant texts in September 2019; I
24 mentioned there's this one about Egyptian Armed Forces Day.
25 None in October. None in November. And perhaps most

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Summation - Mr. Lustberg

1 significantly, there's a celebratory dinner, and you will not
2 be surprised to know Will Hana is not at that dinner.

3 So José does say that Will was involved at the very
4 beginning. For you to believe that, you have to believe José,
5 and that means you have to believe someone who, given his
6 history as a fraudster, will lie, cheat and steal -- and for
7 our purposes, mainly lie -- whenever it's in his interests to
8 do so. That's the person you have to believe. He admitted to
9 you that when he is in trouble, he lies to try to get away with
10 it. He told you that from the witness stand. Then he said
11 when his family's in trouble, he makes it clear that there is
12 nothing he would not do to protect him, including lying. And
13 here, you know he claims that his family was in trouble --
14 talking about his daughter Ana.

15 "Q. Fair to say that when you're in trouble, you lie if you
16 think you can get away with it?

17 "A. I will say that I have lied in the past.

18 "Q. To try to get away with it, correct?

19 "A. That would be fair to say.

20 "Q. And is it also fair to say that when your family's in
21 trouble, there is nothing you wouldn't say to try to help them?

22 "A. I will do the necessary steps to protect my family, sir.

23 "Q. Including lying for them, correct?

24 "A. I will say that I will do the necessary things to protect
25 my family, sir.

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Summation - Mr. Lustberg

1 "Q. And my question is that would also include lying for them?

2 "A. I had lied in the past to protect my family, yes."

3 I mean it's a revealing change because, on the one
4 hand, he admits to lying, and on the other hand, you see he's
5 just, you know, he's trying to help his own case by cooperating
6 with the government. And he told you from the stand numerous
7 specific times in the past when he had lied to help himself and
8 his family.

9 He lied to a bank to get a loan so that he could buy
10 two trailers for his trucking business when he didn't otherwise
11 qualify for the loan.

12 He lied by creating a fake tax return and using it for
13 a loan application.

14 He lied on his taxes for years and years -- in two
15 ways, both by hiding his income and filing false tax returns
16 that said he made less than he actually did -- this is all
17 stuff that he admitted -- and by lying to the IRS and claiming
18 he was married for about 12 years when the truth was that he
19 was divorced, which, of course, meant that he paid less in
20 income taxes.

21 He lied to the Small Business Administration to get a
22 loan, and he used the same false information from the tax
23 returns he gave to the bank to, in that way, get a loan that
24 was intended for people who were actually in need of economic
25 disaster relief during Covid.

07aWmen5

Summation - Mr. Lustberg

1 He lied when he continued to run an insurance agency
2 after he knew he couldn't by using first his son and then his
3 daughter as the straw owners to hide the fact that he was
4 really running it, and he admitted that he did so that he could
5 get cash out of the business for himself.

6 And of course, he lied to the prosecutors in this very
7 case when he falsely told him that the car that he, and he
8 alone, gave to Nadine was really a loan:

9 "Q. And did you plead guilty to conspiracy to commit
10 obstruction of justice and obstruction of justice?

11 "A. Yes, I did.

12 "Q. What made you guilty?

13 "A. Making up a cover-up story to Nadine to justify the car
14 payment." No nothing to indicate that Will Hana had anything
15 whatsoever to do with that.

16 And ladies and gentlemen, he also lied to you when he
17 told you that he never withdrew cash from the trust accounts,
18 the escrow accounts of Phoenix. But as you can see from these
19 sections -- and these are things that we added -- he told you,
20 as I said, he never withdrew cash, but you can see from these
21 examples that he did that a number of times.

22 So having been caught redhanded for evading taxes, now
23 he's in trouble again and he's once again lying to get out of
24 trouble -- now by blaming Will Hana. You have heard his
25 testimony, and especially his cross, for yourself.

07aWmen5

Summation - Mr. Lustberg

1 Yesterday, I thought it was interesting Mr. Monteleoni
2 said he was straightforward, quote, the same person on
3 cross-examination as he was on direct examination.

4 (Continued on next page)

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07A3MEN6

Summation - Mr. Lustberg

1 MR. LUSTBERG: I want you to think hard, and you're
2 able to get transcripts if you ask for them. And think about
3 his cross-examination, we went back through it. And we counted
4 up, on direct examination, 15 times, he said he didn't recall
5 anything. On cross-examination, he said it 110 times. So to
6 say he was the same person on cross as on direct is simply
7 inaccurate. Don't ignore that. Don't ignore the cross. Don't
8 ignore the lying.

9 Even though the government who called him really
10 almost invites you to decide this case without thinking of it.
11 There is a reason why Mr. Monteleoni said to you yesterday you
12 don't have to worry too much about Jose Uribe. But anyway, as
13 skilled a liar as Jose Uribe was, he really couldn't craft a
14 lie that would truly implicate Will Hana because, as we saw,
15 Will in fact did nothing, even in Uribe's telling, to help
16 Parra.

17 In fact, even in Uribe's telling, all he did was to
18 engage in a conversation, first outside Andy's office, and
19 later at the Glenpointe Marriott -- for old time's sake here
20 you go. And he made a deal where he would be paid some amount
21 between 200,000 and \$250,000, a quarter of a million dollars in
22 order to take completely unspecified acts to help Parra.

23 But think to yourself, does that make sense that there
24 would be an agreement whereby Jose, whereby Will Hana would get
25 paid 200 to \$250,000, even though he had no contacts in state

07A3MEN6

Summation - Mr. Lustberg

1 government, and more importantly, no plan on what he was going
2 to do? Because in fact, according to Uribe's testimony, and
3 during that meeting, there was no discussion with Mr. Hana
4 about the specifics of what he was going to do to help with
5 what we referred to as part 1 and part 2.

6 Elvis Parra is the investigation that might lead to
7 your daughter Ana. The Court you didn't know what Will was
8 going to do, correct? Correct, sir.

9 Will didn't give him in his words step 1, 2, 3, or 4.
10 He didn't say anything about what he was going to do. The
11 testimony went this way.

12 Yesterday you talked about the fact that Will never
13 told you what he meant in terms it of step 1, step 2, step 3,
14 step 4, what he was going to do, correct? Meaning he didn't
15 tell me what was being done step by step to get this. The
16 resolutions of the cases. Correct. He never said that to you,
17 right? He did not discuss that to me.

18 More specifically, this is important, there was no
19 discussion of a bribe. So the question to him was right. So
20 my question is there was no discussion of a bribe. Correct?
21 There was no discussion of how he was going to pay somebody.
22 Yeah.

23 He didn't even say he would do anything illegal. So
24 when is the evidence of an agreement of a promise by Will to
25 commit bribery? There simply isn't one and that's because it

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Summation - Mr. Lustberg

1 doesn't exist.

2 Oh, with regard to the payment itself, you'll recall
3 that Uribe says that at some point \$125,000 was supposedly paid
4 some time after Parra's June 24, 2019 sentencing. Please keep
5 that date in mind. That's an important date. June 24, 2019,
6 is when Parra supposedly gets sentenced. And some time after
7 that, according to Uribe, \$125,000, so it's down from the 200
8 to 250, get paid to Will Hana.

9 I want you to think hard about that \$150,000. You
10 have seen a case in which the government repeatedly, over and
11 over, showed where money came from, and where it ended up. You
12 saw summaries of bank records, there's a wealth of financial
13 information. Money being taken out of various accounts, and so
14 forth. But here, there is literally no evidence, none, of
15 money being taken out of various accounts to fund such a
16 payment from Uribe, from Parra, from Bien Hernandez, nothing.
17 And absolutely no evidence that Will received anything like
18 those kinds of moneys, no bank records. And unlike some other
19 situations here, no cash. No gold in his apartment.

20 You saw a stipulation where his apartment gets
21 searched a few months afterwards, and only \$5,943 in cash was
22 found.

23 In a case in which there have been endless texts and
24 e-mails and huge summary charts, that's Government
25 Exhibit 1303, there are no communications, not one, not one

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Summation - Mr. Lustberg

1 communication, discussing this payment of 250,000 or 200, or
2 125. Not one.

3 To believe that you have to believe Uribe in part,
4 because the government didn't call Parra or Bien as they
5 certainly could have in order to bear their burden. Because
6 remember, the reasonable doubt can arise from the evidence or
7 from the lack of evidence.

8 Oh. One other thing. When we talk about what
9 evidence there wasn't, with respect to this payment, you heard
10 a witness, I think her name was Agent Wheeler, who talked about
11 tracking people, with how you can track people's locations.
12 So, Uribe's testimony was that they tracked people all over the
13 place, but Uribe's testimony is that this payment is made at
14 Will's apartment. There is nothing tracking Bien Hernandez,
15 Elvis Parra, anybody else to Will's apartment to make a payment
16 at the end of June.

17 The bottom line is that even though the government
18 says that everything -- this is what Mr. Monteleoni said I
19 think yesterday but maybe the day before -- that Uribe said
20 should be believed because it was, in Mr. Monteleoni's words,
21 overwhelmingly corroborated, there is no proof of this \$150,000
22 beyond Uribe saying it. There's, you may see on rebuttal a
23 text message in which Uribe -- I'm sorry, in which Parra and
24 Bien Hernandez talk about Will's address. But that you'll see,
25 that's way before when the payment was supposedly made after

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Summation - Mr. Lustberg

1 the June 24 sentencing.

2 But again, even assuming that there was a payment,
3 there is nothing that ties it to the quo. So, we have the quid
4 and the payment. Their theory is Will is involved because he
5 had a conversation outside of Andy's office and at the hotel
6 where it is all discussed, although with no specificity. Just
7 he was going to get paid 200 to \$250,000 to do something. But,
8 beyond that, there is nothing that ties it, anything that
9 happened with Will to the quo. That Menendez was going to do
10 something because of this car to intervene in Parra's
11 prosecution and in the investigation of Peguero. Part 1 and
12 part 2.

13 No evidence that whatever Hana promised to do had
14 anything to do with Menendez. But more specifically, anything
15 to do with Menendez calling and a meeting with the attorney
16 general.

17 In his direct and I think at least once during his
18 cross, Uribe said that Will mentioned Nadine and the senator in
19 Andy's office and maybe at the Marriott as well. But again,
20 there was no discussion of what he meant by that. And we know
21 that at the same time other things were happening. They were
22 organizing a perfectly legal fundraiser for Senator Menendez at
23 the time. And there was some discussion, as you know, about
24 this dinner in 2018 which Uribe ultimately said was useless
25 because it was only about Will kissing the senator's ass.

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Summation - Mr. Lustberg

1 The truth, the whole truth, as Mr. Fee talked about
2 earlier today, was that all that Will really did was to try to
3 get another attorney, Doug Anton, involved in representing
4 Mr. Parra.

5 If you were trying to curry favor, though, with
6 Senator Menendez, could you have chosen a worse person than
7 Nadine Menendez's former boyfriend? It seems like an odd
8 choice of lawyers, if what you were trying to do is to curry
9 favor with Mr. Menendez.

10 In fact, you can see that all that Will was trying to
11 do was to get a different lawyer. Now, that actually fails and
12 Mr. Fee went through all of the texts this morning. I won't do
13 that now. That shows what all the interactions with Will
14 around getting Anton involved. Getting discovery, getting
15 information, so forth, and just generally talking about it.
16 Those texts continue through June of 2018.

17 But at that point it becomes obvious that, in fact,
18 Mr. Parra has gotten another lawyer, the best lawyer in New
19 Jersey, Michael Critchley. And Critchley has filed his
20 appearance on March 2018. So at that point, whatever it was
21 that Will's doing was over. He tried to get Anton involved,
22 and that's it.

23 By the way, I should note, the only person who had got
24 paid \$250,000 in this case was Mr. Critchley, who, by the way,
25 worked extensively. I think he billed, according to the

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Summation - Mr. Lustberg

1 records, a total of 315 hours and he successfully secured for
2 Parra a plea of probation. That's all a good thing.

3 Even if there was a scheme, it was an absurd one. For
4 a federal official, a U.S. senator to talk to a state official,
5 an attorney general who had and could have nothing to say about
6 this, the whole thing, it was a ridiculous idea. Not a real
7 quo for this quid, even if you could tie them together, which
8 you can't, certainly with regard to Will.

9 And again, you'll think about whether it was an
10 official act. Mr. Fee has talked about that. Was there
11 anything that was pending before the senator that had to do
12 with his specific duties. Was his phone call or meeting with
13 Attorney General Grewal an official act? Seems to contort the
14 law beyond where it can possibly go.

15 So, those are the three schemes. I've been talking
16 for a while, longer than I like to. And so I'm going to wrap
17 it up now, but I have a couple of final observations to make
18 for all of you.

19 In the conclusion of its summation yesterday, the
20 government described really aggressively IS EG Halal Will's
21 business which he worked so hard to build into this success
22 story that it is. This is how they described it. As a
23 monopoly dropped in the lap of someone unqualified, based on a
24 single decision of the Egyptian government.

25 Consider, if you would, how unbelievably unfair this

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Summation - Mr. Lustberg

1 characterization was. How it not only ignores the hard work
2 that Will had done to learn the halal business and make it into
3 a real international operation, about which you've heard, but
4 also how it disrespects the Egyptian decision, which it
5 denigrates.

6 Think about how much this prosecution against Mr. Hana
7 is based upon a fundamental misunderstanding of who he is, and
8 where he comes from.

9 It ignores his Egyptian origins when it downplays the
10 contacts he had which yielded him this contract.

11 It fails to appreciate the role of his Coptic
12 Christian faith, which Egypt viewed as critical as the El-Sisi
13 government pushed out the Muslim Brotherhood and promoted
14 Coptic Christians, including Will.

15 It misses the point of Will advocating with the
16 senator from his home state for a better relationship with his
17 native land, advocacy which explains so many of the entries on
18 Exhibit 1302, whether meetings or dinners or texts or e-mails,
19 often supporting the Egyptian point of view.

20 And it even misunderstands the culture from which he
21 came. A culture that, in practice, is certainly foreign to
22 many of us, in the way it celebrates occasions, large and
23 small, with gifts of gold, which probably most of you don't
24 have.

25 It ignores all of that context, including the Armenian

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Summation - Mr. Lustberg

1 Middle Eastern diaspora which became such an important aspect
2 of who Will Hana was and who he spent time with, including Andy
3 Aslanian, Nadine Arslanian, Fred Daibes, John Moldovan, Vasken
4 Khorozian, among others.

5 But that context, and the closeness of the
6 relationships within that context, some aspect of which we
7 tried to capture in Hana Exhibit 1300, the 14-page chart that
8 talks about the informal contacts between people, is critical
9 to understanding what happened here. And why the quids were
10 innocent, why Senator Menendez's quos were appropriate, and why
11 none of them, none of them were done with anything like corrupt
12 intent.

13 The government calls all of that a distraction. But
14 really, it's important. It's necessary for you to understand
15 the narrative. A narrative that really can't be ignored
16 without misunderstanding, misunderstanding what happened here,
17 and why far from being a criminal, Mr. Hana is a good man, who
18 committed no crime, but rather sought to build a life in this
19 new country, a business from the ashes of prior financial
20 setbacks, and a social circle surrounded by immigrants, whether
21 first or second generation like him.

22 I ask you to consider, even if the government has
23 refused to, those facts, and not to ignore them or to speculate
24 from them to criminality, when really, they are entirely
25 consistent with innocence or with the stuff of everyday

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Summation - Mr. Lustberg

1 law-abiding life.

2 This will be difficult for you. And I'll tell you
3 why. This is -- I'm in a tough situation here. The government
4 got to go first, and lots of psychologists say you remember
5 what you heard first. That's called primacy. And other
6 psychologists say you remember what you heard last, and that's
7 called recency.

8 I am going to ask you to work really hard remember
9 what I said in the middle after 10 hours of summations, so you
10 can factor that into your deliberations. I have to ask you to
11 try to do as hard as you can do that. To do so with an
12 understanding that my client, Will Hana, who I'm genuinely
13 honored to represent, is not just a name that appears in
14 hundreds of pages of summary charts, or exhibits contained in
15 those charts. Not just a name that can be checked off on a
16 computer screen. But is a real flesh-and-blood person who has
17 a real life, a good and courageous background, and now a
18 business which is a tribute to both. And which works every day
19 to uphold the traditions of Islam, even thought it's not his
20 faith.

21 If you do all that, and if you think of the evidence
22 and lack of evidence as I've been discussing it, if you talk,
23 and listen to each other, and really deliberate, I'm confident
24 that you will return the only verdict that is consistent with
25 the law -- and the facts and the system of justice of which

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1 we're all a part.

2 Mr. Hana is not guilty of the charges against him.

3 Thank you.

4 THE COURT: Thank you, Mr. Lustberg.

5 Ladies and gentlemen, I'm going to ask Mr. De Castro
6 to begin his summation on behalf of Mr. Daibes. And if he does
7 not conclude, we'll pick it up tomorrow with the rest of the
8 summation. Mr. De Castro.

9 MR. DE CASTRO: Thank you, Judge.

10 Good afternoon. Summing up last is tough. Many of my
11 general points will have been covered by other counsel. And
12 you, the jurors, are tired. I know that. You've sat for eight
13 weeks, nine weeks of testimony, and now many hours of closing
14 argument.

15 The good news is that, like opening statements and the
16 questioning of witnesses, I suspect I will be the briefest.
17 But it's not how much you say, how long you present witness
18 testimony, how long you cross-examine witnesses, or how long
19 you speak during closing arguments that determines how
20 effective you are. Just because we're last doesn't mean that
21 you should consider our arguments any less. I ask you to
22 listen to my arguments just as attentively as you've listened
23 to everyone else's, and I'm going to do my best to be brief,
24 concise, to the point, and clear how the government was unable
25 to prove that Mr. Daibes committed any crimes.

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1 As I said to you in my opening statement, the
2 government wants and needs you to assume, presume, and unfairly
3 infer that Mr. Daibes' money and gold was found at 41 Jane
4 Drive and Nadine Menendez's safe deposit box, and therefore,
5 those items must have been bribes.

6 What you have seen is a case that was reverse
7 engineered and they presented it to you in exactly the same
8 way. What do I mean by reverse engineered. I say it was
9 reverse engineered in that it was driven by conclusions.

10 First, it was driven by conclusions first, and then
11 the presentation of circumstantial evidence to try and prove
12 that conclusion.

13 They found money that they linked to Mr. Daibes. They
14 found gold that they linked to Mr. Daibes. But they didn't
15 know what it was for. And they want you to assume, conclude,
16 that they were bribes. Start with the conclusion, and then
17 look for anything else that helps support that conclusion. And
18 along the way they ignored any alternate conclusions.

19 And they presented their case to you in exactly the
20 same way. They didn't present facts to you how they happened
21 historically so you can draw your own conclusions in a logical
22 way. No. They started by shocking you. By sensationalizing
23 the case. They presented the recovery of money and things from
24 Nadine Menendez's home and safe deposit box. They wanted you
25 to be blinded by the presence of cash and gold and conclude

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1 that something must be nefarious.

2 To be driven by that conclusion while you listen to
3 all the other evidence that came after. They wanted you to
4 make the same mistakes that they did. Arrive at the conclusion
5 and then hear the evidence.

6 Then, despite their lengthy summation, that made it
7 seem like they had direct evidence of Mr. Daibes' guilt, they
8 presented to you a case against Mr. Daibes that was largely
9 built on circumstantial evidence, and unfair inferences and
10 assumptions.

11 They presented you with three theories of what the
12 money and gold was for. They chose Egypt, that Mr. Daibes was
13 somehow involved in paying Senator Menendez to help Mr. Hana's
14 halal business. Weeks of testimony regarding this chapter of
15 the case, and Mr. Daibes was barely even mentioned.

16 They chose the U.S. attorney for the District of New
17 Jersey. Well, he must have paid the senator to appoint Philip
18 Sellinger or try to appoint Esther Suarez to get him a good
19 disposition in his pending criminal case. Again, no direct
20 evidence, and the evidence showed that Mr. Daibes' case was
21 handled like any other case and was resolved on the merits and
22 without any reference to Senator Menendez.

23 They chose Qatar. He must have paid Senator Menendez
24 to introduce him to the Qatars, an introduction to members of
25 the royal family of a U.S. ally that hosts the largest U.S. Air

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1 Force Base in the Middle East, and thank them along with other
2 senators for assisting in the humanitarian evacuation of Afghan
3 refugees. Nothing remarkable about that.

4 As it relates to Mr. Daibes, the government has
5 presented evidence that, at most, would cause you to suspect.
6 However, suspicions and assumptions are simply not enough.
7 They've shown you no direct evidence and very little
8 circumstantial evidence that any of the gold or money that was
9 connected to Mr. Daibes was given to Nadine or the senator in
10 return for any particular official acts.

11 Rather, at best, at best, they have shown that
12 Mr. Daibes provided Nadine and Senator Menendez with gifts or
13 what are called goodwill gifts. Gifts to cultivate a
14 friendship. Gifts to build goodwill. Gift, not bribes.

15 This gold bar was part of Mr. Daibes' inventory and
16 found in Nadine Menendez's home. Did the evidence show when
17 this gold bar was given to Nadine or Bob Menendez? If it was a
18 bribe, wouldn't it have been given before? But the government
19 has given you absolutely no direct proof as to when any gift
20 was given to Nadine or Bob Menendez.

21 Did the evidence show whether this gold bar was given
22 to Nadine or Bob Menendez before or after they say Mr. Menendez
23 assisted with Mr. Hana's business? Did the evidence show
24 whether this gold bar was given to Nadine or Bob Menendez
25 before or after Philip Sellinger was appointed U.S. attorney?

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1 Did the evidence show whether this gold bar was given to Nadine
2 or Bob Menendez before or after Mr. Daibes was introduced to
3 the Qataris? Did the evidence show whether this gold bar was
4 given to Nadine or Bob Menendez before or after Mr. Daibes and
5 the Qataris finished their due diligence and signed a letter of
6 intent?

7 Or is it just as likely that it was a gift to
8 cultivate friendship or a gift to build goodwill.

9 If you don't know, then you're not convinced and he's
10 not guilty.

11 This envelope of money was found in Nadine Menendez's
12 safe deposit box. Did the evidence show when this envelope was
13 given to Nadine or Bob Menendez? Did the evidence show whether
14 this envelope was given to Nadine or Bob Menendez before or
15 after they say Mr. Menendez assisted with Mr. Hana's business?
16 Did the evidence show whether this envelope was given to aid
17 Nadine or Bob Menendez before or after Phil Sellinger was
18 appointed U.S. attorney? Did the evidence show whether this
19 envelope was given to Nadine or Bob Menendez before or after
20 Mr. Daibes was introduced to the Qataris? Did the evidence
21 show whether this envelope was given to Nadine or Bob Menendez
22 before or after Mr. Daibes and the Qataris finished their due
23 diligence?

24 Or did the evidence show it was a gift to cultivate
25 friendship or a gift to build goodwill? If you don't know,

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1 then you're not convinced and he's not guilty.

2 You will not be able to answer those questions,
3 because the government has simply not given you sufficient
4 evidence to know whether the gold or money connected to
5 Mr. Daibes were gifts, goodwill gifts, bribes, or thank yous
6 after the fact. There was simply no evidence other than the
7 presence of the gold and money.

8 And because the government did not give you enough
9 evidence to answer those questions, to conclude unanimously
10 that those items were given in return for official acts of the
11 senator and not simply gifts, goodwill gifts or gifts after the
12 fact, Mr. Daibes is not guilty.

13 I'm going to go through briefly each chapter or part
14 of this case and I'm going to tell you from Mr. Daibes'
15 perspective what the evidence showed or failed to show, how
16 that evidence failed to establish that Mr. Daibes bribed or
17 conspired to bribe Senator Menendez to perform acts that were
18 beneficial to him.

19 After that, I'm briefly going to talk to you about the
20 law. You've already heard a lot about law. I'm not going to
21 go into that in depth. And then I'll take those legal
22 principles and very briefly argue to you how the government
23 failed to show a quid pro quo. And then I'll wrap up.

24 As the judge told you, I'm not going to be that long.
25 I'm going to finish today and I will be a short time tomorrow,

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1 I promise.

2 Before I get into the different parts or chapters of
3 this case, I want to say a bit about what the evidence showed
4 about Fred Daibes.

5 Freddy, as he is called by many, is Palestinian and
6 born in Lebanon. He's not Egyptian; he's Christian. He
7 immigrated to the United States and very much embodies the
8 American dream. He graduated from high school, and with just a
9 high school diploma, he worked his way up to becoming a major
10 real estate developer. The real estate developer in Edgewater,
11 New Jersey. And he's been in real estate development for close
12 to 40 years.

13 You heard from witnesses that know him well. John
14 Moldovan, his assistant Jamela Maali, and Vasken Khorozian. He
15 has grown children. Everyone in Edgewater knows Freddy. He's
16 like a celebrity there. His offices are on River Road in
17 Edgewater, New Jersey.

18 You see John Moldovan's testimony on your screen.
19 He's built the majority of what is on River Road. He built The
20 Alexander, the most beautiful building Moldovan has ever seen.
21 The Metropolitan, the St. Moritz, the Grand Cove, and many
22 other properties. He's down to earth. He's approachable. And
23 he's well known for his generosity. Everyone knows him as very
24 generous. He's extremely generous.

25 Moldovan told you, there is the testimony from John

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1 about his generosity and Ms. Maali about his generosity.

2 Mr. Moldovan told you that he gave Mr. Moldovan, meaning Freddy
3 gave Mr. Moldovan \$25,000 to help start up his law practice.

4 It was a gift. He didn't ask Mr. Moldovan to pay him back.

5 \$25,000. In fact, Mr. Moldovan asked Mr. Daibes if he could
6 pay him back and Fred said no.

7 And just think, if Fred was willing to give someone he
8 was just acquainted with a \$25,000 gift, what would he give a
9 close friend. A close friend.

10 Freddy pays for things in cash. Dinner, gifts. He
11 gives loans in cash. He has cash in the office. This is what
12 the testimony showed. He has cash on him. He has cash at
13 home. You also know that he collects gold. He collects and
14 invests in gold bars, coins, and wafers. His inventory is kept
15 by Ms. Maali. He doesn't hide the inventory or keep it secret.
16 He catalogs it. He has his assistant write down the bar brands
17 and the corresponding serial numbers.

18 There is nothing secretive, as the government was
19 talking about secrecy, there is nothing secretive about it. He
20 writes it down.

21 His inventory had 24-kilo bars on it when it was last
22 inventoried in 2018. That is \$1.4 million worth of gold. He
23 checks the price of gold all the time because he's seeing how
24 much it has gone up or down, because it is an investment like
25 stocks, bonds, and commodities. And the evidence shows that he

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1 tells people that it's a great investment.

2 The evidence also showed that he is a longtime friend
3 of Bob Menendez. Fred has hosted fundraisers for and supports
4 democratic candidates for office. He's hosted several
5 fundraisers for Senator Menendez. He's raised money. He and
6 Senator Menendez have been friends for well over 30 years.
7 They joke, they laugh, they hang out together. It's a genuine
8 friendship. This is a real relationship.

9 How many friends have you had for 40 years? How many
10 friends have you had for 30 years? 20 years? 10 years?
11 Friends look out for each other. You don't bribe a close
12 friend.

13 Fred was invited to Bob's wedding to Nadine. It was
14 an intimate wedding, only 65 people during COVID. Fred was
15 invited and attended. It shows you how close his friendship is
16 with Senator Menendez. Mr. Hana, for example, was not invited.

17 Now, with that backdrop of what the evidence showed
18 about who Fred Daibes is, and his character traits, let's look
19 at the different chapters of this case through that lens. And
20 let me take you through what the evidence showed from our
21 perspective and then how it failed to prove a quid pro quo
22 involving Senator Menendez.

23 So, I'll do Egypt and then probably break if the time
24 is right.

25 Let's start, like I said, by talking about the Egypt

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1 part of the case. Everything I said in my opening statement
2 concerning Egypt, what I expected the evidence would show and
3 what I told you in openings, or not show, has come to pass. In
4 opening statements I told you that you were not going to hear
5 much about Mr. Daibes as it relates to Egypt. Mr. Daibes was
6 barely mentioned in this part of the case. In fact, I think
7 they mentioned him in summation more than they did during the
8 testimony.

9 Several days, maybe even a week of testimony went by
10 without Mr. Daibes even being mentioned. And you saw that
11 reflected on the lack of questions we had for so many of their
12 Egypt-related witnesses. Mr. Tate, Mr. Paul, Mr. McKinney,
13 Ms. Graves, Ms. Hunter Mills, Mr. Thompson, we had no questions
14 for these witnesses at all.

15 I told you that would you hear about the halal
16 business, certifications, slaughters, blessings, and other
17 terminology, and that none of it would have anything to do with
18 Mr. Daibes or his businesses. He's not Egyptian. I told you
19 that he is a New Jersey real estate developer and has nothing
20 to do with the halal business.

21 The evidence showed that Mr. Hana and Mr. Daibes'
22 businesses are totally separate. One doesn't depend on the
23 other. There is absolutely no overlap. At most, at most, they
24 showed that Rony Daibes worked IT for both businesses, and
25 Jamela Maali worked for Mr. Hana in the very beginning to help

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1 him administratively get his business off the ground. She
2 worked for separate pay, had a separate IS EG e-mail, and
3 reported only to Mr. Hana. And it was only for a few months
4 anyway. That's it. No more.

5 Different entrance, their own receptionists, space is
6 separated and separated by access physically. You need a fob
7 or a key card to get into each area. No shared bank accounts.

8 And Mr. Moldovan told you, who was serving as IS EG's
9 counsel, their lawyer, in the early days, that he knew Will and
10 Fred to be friends and was not sure of any business
11 relationship between them.

12 Mr. Daibes is Mr. Hana's landlord in both home and
13 business. You have that document in evidence. It's Government
14 Exhibit on your screen C509. It shows that Fred stands to earn
15 substantial amounts in rent from Mr. Hana. \$624,484.82 over
16 five years in rent to be exact.

17 Mr. Moldovan also told you about Mr. Daibes being
18 involved somehow in Mr. Hana's repurchase or buyback of shares
19 from Andy Aslanian. The government didn't mention it
20 yesterday. They may tomorrow. But, Mr. Moldovan testified
21 that he had no knowledge of Fred having an interest or being
22 involved in IS EG Halal at all. He told you that he didn't
23 know what Fred's role was. All he could say about that was
24 that one day in passing Fred said to him, hurry up and get that
25 contract done. The contract for Will to buy Mr. Aslanian's

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1 shares back. And he told you that Fred did not own any shares
2 in IS EG Halal, that he knew that Fred and Mr. Aslanian were
3 longtime friends.

4 The evidence showed that Mr. Daibes was a mentor and a
5 father figure to Mr. Hana, and he was simply helping resolve a
6 dispute between business partners that happened to both be
7 Mr. Daibes' friends.

8 Fred Daibes is much older than Will Hana. Fred Daibes
9 is in his 60s and Mr. Hana was in his 30s at the time. Fred
10 has adult children, and as I said, Fred's been in real estate
11 for 40 years successfully. For Will, IS EG Halal was his first
12 successful business. Will would go to Fred for business
13 advice. Fred was a mentor, someone Will could look up to. An
14 experienced and successful businessman, and he was also Arab.
15 When Will would go to Fred, it was like a son going to a
16 father. You heard that testimony from Vasken Khorozian.

17 Fred had no involvement in the halal business, as I
18 told you in openings.

19 With respect to Mr. Aslanian's shares, Fred was in a
20 unique position, where both Mr. Aslanian and Mr. Hana would
21 trust him, so he intervened to help them put aside their
22 differences and resolve a business dispute. Nothing more.

23 That brings me to the payment to Nadine Menendez from
24 IS EG Halal. The government argues that one way Mr. Daibes
25 helped in the Egypt part of this scheme, as they say, was he

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1 facilitated payments to Nadine Menendez for her alleged sham
2 job at IS EG Halal.

3 First, there is no evidence that Mr. Daibes had any
4 knowledge of the details of the business relationship between
5 Nadine and Will. If there was something untoward about it --
6 I'm not saying there was -- it was unknown to Fred. And there
7 is no direct evidence that Will or anyone else told Fred there
8 was anything wrong or criminal or anything about their business
9 relationship.

10 Second, like the Aslanian and Hana dispute, Mr. Daibes
11 was involved in the payment to Nadine for no reason other than
12 to help resolve a dispute between two people that he knew. The
13 evidence supports that fair and logical inference.

14 Just look at the text from the chart of the voicemails
15 from Nadine Menendez. This is on lines 1098 through 1104 of
16 Government Exhibit 1302.

17 Good afternoon, Fred. Sorry to bother you with this
18 issue. I have not received any checks from Will. It goes on.
19 The understanding is that he would give me a check the first of
20 every month.

21 Now let me stop there. If Fred is a co-conspirator,
22 why does Nadine have to tell him what her arrangement is with
23 Will?

24 I was hoping I would not have to involve you. That's
25 all on 1098. Then we go to 1099 where you see Nadine, I

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1 personally gave Bob a check.

2 Then we go to line 1100. Fred says, please send me a
3 rundown of what you believe you are owed.

4 He doesn't know because he has nothing to do with the
5 Will and Nadine business relationship.

6 Then you look at line 1104. Nadine sends him a
7 breakdown. We've seen this now a couple times. If Fred was a
8 co-conspirator, why would she have to do this at all?

9 And look at the bottom of the note that I have pulled
10 out there. Fred, once again, I'm very sorry to involve you.

11 Are those messages two of co-conspirators? Or are
12 those messages from someone who believes Fred is involved in
13 whatever business dealings she has with Will. She wouldn't be
14 saying I'm sorry to bother you, I'm sorry to involve you. She
15 would be saying Fred, we, all of us, have a deal. You need to
16 make sure Will holds up his side of the bargain.

17 That's not what this is. There would be no need to
18 educate him on how much she was owed. There would be no need
19 to give him any details because as a co-conspirator or someone
20 involved in Mr. Hana's business, he would know, right? So why
21 does she have to do this.

22 But he didn't and Nadine knows that Fred is friends
23 with Will. That's the fair inference, that he could convince
24 Will to honor whatever deal they had.

25 Now, then there was the evidence of Fred's involvement

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1 in paying off Nadine's mortgage. Look carefully at those
2 messages as well. Again, there is no evidence of Fred's
3 involvement in anything to do with paying Nadine's mortgage,
4 other than as a potential investment. He gets involved, like
5 the issue with payment because Nadine has dragged him into an
6 issue with Will. Fred's much older than Will and Nadine sees
7 him as an elder, someone who can convince Will.

8 So the evidence shows just that. Fred trying to
9 settle a dispute between friends. Again, the peacemaker and
10 one way that he could help was simply buy the mortgage.
11 Meaning he would be buying the loan. And he would be charging
12 Nadine for her mortgage payments. And you heard that he has a
13 business that does just that. East-West Funding. It would
14 save her home in the short term, and Nadine would just make
15 payments to Fred, instead of the bank. And like the bank does
16 on mortgages, Fred would make a profit. And if she didn't pay,
17 he could foreclose and take the house.

18 The holder of Nadine's mortgage rejected Fred's offer,
19 nothing more than that, and certainly nothing suggested a quid
20 pro quo involving Fred. And he had no more involvement in
21 Nadine's mortgage. And that is not proof beyond a reasonable
22 doubt.

23 Now with respect to this issue with Andy Aslanian and
24 Nadine regarding the shares of IS EG Halal and the payment of
25 Nadine's mortgage, Mr. Daibes was in a unique position both to

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1 resolve a dispute between people with which he had
2 relationships, and in Edgewater, New Jersey, Fred is
3 well-known, he is a celebrity like I showed you. And he has
4 been for decades. He is an established businessperson that
5 could be objective. You could think of him as a community
6 elder. He's charismatic and he's approachable. He is a
7 problem solver. That's what developers do.

8 So he got involved at the request of his friends who
9 were having a business dispute. That is what the evidence
10 showed.

11 I also told you that you would hear about meetings
12 about certifications, meetings about audits, meetings in
13 Washington, D.C. with the senator, dinners and other meetings
14 where they claim this conspiracy was hatched. And that you
15 would hear very little about Mr. Daibes. That's what I said in
16 my opening statement. And I told you that, for the most part,
17 Mr. Daibes was not present for those meetings.

18 Well, the evidence regarding certifications, meetings
19 audits, that came from Mr. Tate, Mr. McKinney and Dr. Sayed the
20 last witness, that had nothing do with Mr. Daibes or his
21 businesses.

22 You heard evidence regarding dinners and meetings with
23 Senator Menendez. That largely came from surveillance
24 testimony, and the text messages and communications summarized
25 in Government Exhibit 1302. That was the first and the longest

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1 of the charts presented by the government. The witness that
2 knew nothing about the investigation.

3 So let's look at Government Exhibit 1302. The Egypt
4 chart. You're going to have it. It is single spaced, it's 97
5 pages long. It's 1,272 lines of chart. By my count, Fred
6 appears in only 17 of 97 pages. 80 single spaced pages in
7 which he does not appear. About 80 percent of that document.
8 Fred appears in only 67 of 1,272 lines.

9 And let's talk about the meetings and dinners
10 regarding Egypt about which they presented evidence. They
11 presented evidence to you regarding Egypt, about these meetings
12 and dinners in which Mr. Daibes for the most part did not
13 participate.

14 If he was such an integral part of this part of the
15 conspiracy as they've argued, wouldn't he have been at these
16 meetings and dinners?

17 Let's take a look at that. Starts with February 3,
18 2018 at the Ani restaurant. I won't show pictures of the
19 restaurant. Trust me. Who's present? Nadine, Will Hana,
20 Mr. Aslanian. No Fred Daibes.

21 Let's look at March 13 of 2018. That's the meeting
22 down in Senator Menendez's office. Who is there? Nadine,
23 Senator Menendez, Mr. Hana, Major Shawky, Mr. Habib, Mr. Atia,
24 and Mr. Aslanian. No Fred Daibes.

25 Let's look at May 6, 2018 at the Forno restaurant.

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1 Nadine, Senator Menendez and Will Hana. No Fred Daibes.

2 Let's look at May 18, 2018. Il Villaggio. Nadine,
3 Senator Menendez, Will Hana, and Major Shawky. No Fred Daibes.

4 Let's look at June 30, 2018. This is the Mr. Chow's
5 dinner we've heard so much about. No Fred Daibes.

6 Let's look at July 9, 2018. Here's one where Fred is
7 present. This is the messages you will see he is at a
8 different table, so he's sort of like not even at the main
9 event. He's only present for the possibility of a real estate
10 deal. The possibility of a real estate deal. But you've seen
11 no evidence that Mr. Daibes was involved in any real estate
12 deals with Egyptians. And it certainly doesn't mean he was
13 involved in Will Hana's halal business. That would be a very
14 unfair inference to make.

15 Let's go to July 25 of 2018. In the senator's office,
16 Nadine, Will Hana and Egyptian delegation. No Fred Daibes.

17 Let's go to October 2nd, 2018. At the Egyptian
18 embassy and later in Morton's Steakhouse. Nadine, Senator
19 Menendez, Mr. Hana, Mr. Helmy. No Fred Daibes.

20 Let's go to January 30 of 2019. That's at the
21 Egyptian embassy. Nadine, Will Hana, Mr. Helmy. Again, no
22 Fred Daibes.

23 May 21, 2019. At the Hart Senate Office Building.
24 Nadine, Senator Menendez, Mr. Hana, Mr. Helmy. No Fred Daibes.

25 Look at 9/5 and 9/21/2019. These are dinners. Fred

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1 is at these dinners. And as Mr. Lustberg was talking about,
2 what was discussed at these dinners? You don't know. There is
3 no evidence of what was discussed or that they involved
4 Mr. Daibes. And again, no evidence that he was involved in any
5 real estate deals with the Egyptians. Just that there were
6 talks. Nothing to do with IS EG Halal.

7 Let's keep going. October 8, 2020. River Palm.
8 Nadine Menendez, Mr. Menendez, Mr. Helmy and Mai Abdelmaguid.
9 No Fred Daibes.

10 December 28, 2020. Il Villaggio. Nadine, Senator
11 Menendez, Mr. Helmy and Ms. Abdelmaguid again. No Fred Daibes.

12 June 22 of 2021. Washington, D.C. Mr. Menendez, other
13 United States senators, and Mr. Kamel. No Fred Daibes.

14 October 15 of 2021. This is the trip to Egypt. Fred
15 didn't go on that trip. Nadine, Senator Menendez, Mr. Kamel
16 and an unidentified female. It was a meeting. No Fred Daibes.

17 I told you that the government would not be able to
18 show you any corrupt intent by Mr. Daibes or any official
19 actions tied to any payments to Senator Menendez related to
20 Egypt.

21 And I'll ask you again, as I did earlier. What did
22 Mr. Daibes give the senator related to Egypt? Did he give him
23 gold? Did he give him money? Did he give him something else
24 of value? If you don't know, then you're not convinced. And
25 he's not guilty.

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1 Judge, I think this would be an appropriate time.

2 THE COURT: Fine. Thank you, Mr. De Castro. And
3 we'll pick it up tomorrow.

4 Ladies and gentlemen, what we have left, as you know,
5 is the conclusion of Mr. De Castro's summation on behalf of
6 Mr. Daibes. We then will have the government rebuttal
7 summation. We then have my charge. And then you will commence
8 your deliberations.

9 Enjoy the evening. Don't discuss this. Keep an open
10 mind. See you tomorrow at, again, if you're here at 9:30,
11 we'll start. Thank you.

12 (Jury excused)

13 THE COURT: What's the projection of the government,
14 length of time for the government rebuttal? Sir?

15 MR. RICHENTHAL: I don't know yet. But, my goal is
16 less is more. So I would certainly try to do it in under two
17 hours.

18 THE COURT: I'll see everybody at 9:30.

19 MR. MONTELEONI: With apologies, I have an
20 application.

21 THE COURT: Yes, sir.

22 MR. MONTELEONI: So Mr. Lustberg referred in his
23 summation to the government not calling Elvis Parra or
24 Bienvenido Hernandez, as they certainly could have. That is
25 they could have called witnesses from the bank issue with

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1 Mr. Fee.

2 We have then Mr. De Castro also again criticized the
3 exact same issue that the Court sustained an objection on about
4 the bringing out of evidence with the first witness in the
5 case. If you remember his opening statement, he said I think
6 they'll lay out this evidence in the most prejudicial way
7 possible. We put in our letter that he should not be making
8 statements criticizing our litigation tactics in that fashion.
9 We understood the Court granted that application. Then he
10 criticized the very decision to present the physical evidence
11 seized by the searches in the beginning of the case saying they
12 started by shocking you, by sensationalizing the case. They
13 present the recovery of money and things.

14 So, again, this is exactly the same type of improper
15 criticism of our litigation tactics.

16 In addition, obviously, to Mr. Fee choosing to close
17 out his summation by characterizing us as overzealous
18 prosecutors.

19 Ultimately we think that it is appropriate to remind
20 the jury, yet again, that the government is not on trial. And
21 that uncalled witnesses were equally available to both sides.

22 THE COURT: Any response? I think those are rather
23 perfectly acceptable.

24 MR. LUSTBERG: I'd like to look. I think what I said,
25 I think focused on evidence or lack of evidence. And I didn't,

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1 I wasn't -- so I think that was an appropriate comment. But
2 let me take a look at the transcript. You won't do anything
3 until tomorrow morning anyway.

4 THE COURT: No.

5 MR. DE CASTRO: Judge, my initial reaction is
6 number 1, what I mentioned regarding shocking was, first of
7 all, the order in which they presented evidence. The order in
8 which they presented it. In order for the jury to make
9 particular inferences and to have particular beliefs in their
10 mind. I'm allowed to comment on that. Just the order they
11 presented it, the way they presented it. They put a chart up.
12 I can't say they put a chart up?

13 THE COURT: Yes, you can, sir.

14 MR. DE CASTRO: I don't think I crossed any line. I
15 knew what the Court's ruling was earlier on and I stuck to it.

16 THE COURT: All right. I want the parties to go
17 through the testimony, tell me tomorrow what it is you want me
18 to see.

19 It seems to me that a charge in light of the
20 references to overzealous prosecutors and most prejudicial way
21 possible phrases, that's something on the lines of the
22 government isn't on trial. And the uncalled witnesses charge
23 again is appropriate. Rather pro forma. But you'll send me
24 the transcript references that you want.

25 In fact, if you wish, send the page references to my

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1 chambers overnight. I'll look at them before we take the bench
2 in the morning.

3 MR. DE CASTRO: Judge, one thing. I'll look at it as
4 well. But, the comment regarding overzealous, I didn't make
5 that comment. I didn't make any comments about missing
6 witnesses. So if you are going to give an instruction about
7 that, I would ask you not do it in the middle of my summation.
8 It had nothing to do with anything I said. Maybe do it after.

9 THE COURT: I hear you. Send me the pages and I'll
10 take a look at them. Thank you. 9:30 in the morning.

11 (Adjourned to July 11, 2024, at 9:30 a.m.)

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